



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** October 11, 2011

**TO:** Mayor and Councilmembers

**FROM:** Planning Division, Community Development Department

**SUBJECT:** Appeal Of 860 Jimeno Road And 1402 Grand Avenue Single Family Design Board Approvals

### RECOMMENDATION:

That Council deny the appeal of Tony Fisher, Attorney representing Mike and Linda Cahill, and uphold the Single Family Design Board (SFDB) Approvals of the as-built window and door changes to 860 Jimeno Road and proposed entry gate, turnaround, two-car garage, and relocation of property line fence for 1402 Grand Avenue.

### EXECUTIVE SUMMARY:

The appellant has filed an appeal of the design review approval of improvements to the properties at 860 Jimeno Road and 1402 Grand Avenue including fencing, a window/door change and the design of a garage. Staff and the SFDB find that the proposed improvements to each of the existing single-family residential properties are appropriate and consistent with the City Zoning Ordinance provisions. Many of the issues raised in the appeal letter relate to situations on adjacent properties, issues unrelated to design review, or have to do with previous zoning enforcement action from years ago that will not be discussed in this report because they are not relevant to the appealed decision.

### DISCUSSION:

#### Project Description:

The project includes the construction of a new detached two-car garage, the installation of automatic gates at the driveway entry, the landscaping screening of block walls south of the driveway, landscaping of an as-built turnaround area, and the relocation of the property line fence for 1402 Grand Avenue property. Alterations including window and door changes are proposed for the 860 Jimeno Road property. These exterior physical changes are subject to review and approval by the SFDB.

These two properties also processed a Lot Line Adjustment (LLA) resulting in a transfer of 3,140 square feet of lot area from the 860 Jimeno Road property to 1402 Grand Avenue property. As provided in the state Subdivision Map Act and the Municipal Code, the City

Staff Hearing Officer (SHO) approved the LLA on June 3, 2009 finding it is consistent with the Zoning Ordinance; this included conditions of approval on the LLA. In June 2010, the applicants requested a change to the proposed parking for 1402 Grand Avenue to be a two-car garage instead of a carport. Staff made a substantial conformance determination to accept the changes proposed.

Project History:

The appellant's letter describes a number of issues that are unrelated to the SFDB's decision to approve the architectural design changes to residence at 860 Jimeno and the proposed design of the garage and the location of site improvements for the 1402 Grand Avenue property.

The appellants as long time resident neighbor to these two properties have had a history of questioning the development and use of these properties. Staff will not be responding in detail to each issue that is unrelated to appeal' however we will provide a brief explanation of our position on some of those matters.

On June 3, 2009, the Staff Hearing Officer (SHO) approved a lot line adjustment subject to the conditions of approval outlined in SHO Resolution No. 046-09.

On April 20, 2010, the applicant submitted plans for SFDB review that showed a two-car detached garage and alterations to the SHO approved site plan that required staff to make a determination of substantial conformance. On May 10, 2010, after a mailed noticed was sent to neighbors within 300 feet of the project site and to interested parties that had previously requested to be notified for the case, the revised project was reviewed by the SFDB.

On June 30, 2010, Community Development Staff placed the application on the SHO agenda to receive input from the SHO regarding the "substantial conformance" request to build a two-car car garage rather than a one-car carport and enlarge the turnaround area prior to staff making a final determination of substantial conformance. An addendum to the arborist report prepared by Duke McPherson was presented to the SHO (Attachment 5) which stated that parking outside of the setback would not adversely impact the health of the oak tree on the 860 Jimeno Road property. Mr. McPherson was present at the hearing to further discuss his conclusions and suggested that the applicant could monitor the health annually for a total of three to five years to show that the parking was not adversely impacting the health of the tree. Following the SHO hearing, a letter dated July 29, 2010 was mailed to the applicants documenting that proposed revisions to the project were determined to be in substantial conformance.

On July 5, 2011, the SFDB reviewed and approved as-built alterations to the residence at 860 Jimeno Road property including window and door alterations to convert an existing basement storage area to living space. On July 11, 2011, the appellant filed an appeal of

this decision at the City Clerk's office. The appellant letter (Attachment 1) describes what occurred with respect to the City Clerk returning the appeal and then later staff acknowledging (in an email also part of Attachment 1) that the concerns regarding 820 Jimeno Road would be heard at the same time as this appeal that was expected for 1402 Grand Avenue.

On July 27, 2011, a time-extension request of the Lot Line Adjustment approval from the Applicant was reviewed and approved by the SHO. The appellant states, on page 6 of the appeal letter under section i, that an appeal of the time extension was filed but not processed. The appellant filed an appeal, which was later returned after consulting with the City Attorney, because it was determined that an approval of a time extension for an LLA is ministerial and is not an action that can be appealed to the City Council by a third party. In addition, the June 3, 2009 action to approve the lot line adjustment was not appealed within ten calendar days of the action as allowed for in the Municipal Code. Specifically, SBMC §27.40.100.C Expiration and Extension (of lot line adjustment approvals) states the denial of a time extension can be appealed by the applicant within fifteen working days of the action. No other types of appeals are allowed. This provision of the Municipal Code mirrors the treatment of appeals of decisions relating to time extensions under the state Subdivision Map Act.

On August 22, 2011, the SFDB reviewed and approved the following improvements the property at 1402 Grand Avenue at the Consent Calendar: 1) The as-built installation of decomposed granite to create a turnaround area adjacent to the existing driveway. 2) The removal of vegetation along the previous property line to allow access to the turnaround area that did not require review or permits to remove. 3) The landscape screening with rosemary of existing retaining walls that did not require a permit. 4) A proposal to construct a two-car garage to meet the conditions of approval for the Lot Line Adjustment. 5) A proposal to remove the existing property line fence and replace it along with property line fencing including the widening of the driveway width at the emergency access gate separating the properties at 860 Jimeno Road and 1402 Grand Avenue. 6) A proposal to install a new entry gate, lighting, and columns at the driveway entry off of Grand Avenue. The August 22, 2011 Consent Calendar action was ratified at the Full Board Hearing on August 29, 2011. The appellant filed an appeal on September 8, 2011 (Attachment 1).

## **APPEAL ISSUES:**

### **A. Resulting Lot Sizes**

The approval of a LLA considers the changes in lot size; however, the appellant did not file an appeal within 10-calendar days of the LLA approval on June 3, 2009. The LLA, as proposed did not require any zoning modifications. The LLA has been recorded and is not subject to appeal.

## **B. As-built Construction Work on Both Lots**

### 860 Jimeno Road

The previous property owner submitted an application to permit the as-built window and door changes to the residence located at 860 Jimeno Road prior to the sale of the property to the current property owner. After receiving an approval from the City, the application was appealed by Mr. Fisher on behalf of the Cahills. Subsequently, the project was withdrawn and later the work was incorporated into the scope of work for the LLA involving the property and the property at 1402 Grand Avenue. The appeal was not heard by the City Council.

The applicant has asked the City to permit the as-built conversion of the basement from storage to habitable space; this conversion was disclosed in a Zoning Information Report for 860 Jimeno Road which was prepared at the time of sale from Midwest Institution LLC to current owners Joyce and Joseph Yob. During the zoning plan check, the as-built changes were reviewed to verify that the space, which does not have interior access to the remainder of the residence, could not be used as a separate residential unit as defined under SBMC §28.04.590. The as-built window and door change received review and approval by the SFDB which is subject to appeal.

### 1402 Grand

The applicants for 1402 Grand Avenue are asking the City to approve changes to the property for a new turnaround area and to limit parking within the setback by installing a curb/barrier ten feet from the northerly property line along the existing property line wall (with an exception of a 14-foot wide hammerhead), permit the installation of rosemary to screen alan block walls south of the driveway, the removal/ replacement of fencing at the shared property line to delineate the new property boundary, installation of new driveway entry gate, columns and lighting.

During the review process for the project, the appellant reported several alleged violations on the 1402 Grand Avenue property to the City; for example, the Appellant alleged the owners had constructed an Alan block retaining walls without required permits, the creation of a turnaround allowing for parking within required setback, the use of the residence as a vacation rental, and the enlargement of the residence without proper City review. Each of the allegations were reviewed prior to the approval of the lot line adjustment and have been summarized in the following paragraphs. In addition, the appellant has alleged that the proposed garage will be used in the future as an additional vacation rental.

The allegation that the alan block walls were constructed in 1999 without a permit was investigated by a building inspector in the field where it was determined that the wall did not require a building permit since it was 42" or less in height. The wall was measured to be 42 inches or less in height and therefore did not require a permit.

The appellant reported the property owners of 1402 Grand Avenue removed a retaining wall at the previous property line and reconstructed the retaining wall without permit in order to create additional on-site parking within the required setbacks for the illegal use of the property as a vacation rental. A building inspector completed a site investigation, reviewed the archive plans, and permit records. The inspector could not verify that a permitted retaining wall had been removed or that the partial repair and re-grouting of the existing retaining wall at the approved property line required a permit.

At the time of the complaint, the land used for parking and the newly created turnaround area was located within required setbacks of 860 Jimeno Road. The retaining wall to the north of the turnaround is where the property line was relocated to with the approval and recordation of the LLA. The design of the turnaround area is part of this appeal. The vacation rental use land use violation was verified and has been abated.

The appellant has also alleged that the square footage of the house was increased without proper noticing and public review. The plans for the current project have not increased the square footage since the last permit (BLD2005-00727) which was issued and a final inspection completed on June 12, 2008. As a requirement of the conditions of approval for the LLA, City Staff (including the case planner, the Development Review Supervisor and Building Inspector Supervisor) conducted a site visit to review alleged violations contained in the preceding paragraphs and completed field measurements of each of the rooms within the residence as required per the conditions of approval. Staff compared the field measurements of the rooms with the dimension on the plans and did not find any evidence that the square footage had increased.

**C. Proposed New Construction at 860 Jimeno (New entry to as-built understory)**

The exterior improvements to the property included the change of a window to a pair of French doors on the south elevation. The design change was reviewed and approved by the SFDB on July 5, 2011. The additional door to the attached accessory space does not violate the zoning ordinance.

**D. Substantial Conformance Determination/ Time Extension Approval**

The appellant characterizes the substantial conformance determination for changing a proposed carport to a garage as “amending” a condition of approval. Staff does not consider a substantial conformance determination to be an amendment of a condition of approval. The question determined in a substantial conformance determination is whether an alternative design substantially conforms to the project approval or conditional approval. After an application has been approved by the Staff Hearing Officer, the applicant may request minor revisions to a project. These requests are usually the result of completing the design review and plan check processes where some new requirement has come to light. This finding of “substantial conformance” was made by the Staff prior to the issuance of building permits. The SHO may be asked to offer input before Staff makes the substantial conformance determination. The question in this type of determination is whether the project revisions are substantially consistent with the original SHO approval.

If Staff cannot make the finding of substantial conformance and the applicant still wishes to pursue the revised project, an application for an amendment to the approval must be filed.

The appellant has included the LLA time extension and related substantial conformance determination in the appeal request (page 5, section f); however, a determination was made by Staff, after consultation with the City Attorney's office, that the substantial conformance determination and LLA time extension are not subject to appeal.

#### **E. Garage in Lieu of Carport**

The substantial conformance determination reviewed the conditions of approval and requested changes to the project and determined that the proposed changes meet the zoning codes parking requirements. Government Code Section 66412 (d) limits conditions placed on a LLA application to assuring compliance with the General Plan, building codes, and zoning ordinances.

At the time of the original LLA approval in 2009, the zoning ordinance required two covered parking spaces for a single-family residence (SBMC §28.90.100.G.a); however, an exception allowed the parking to be reduced to one-covered and one-uncovered parking space (SBMC §28.90.100.G.b). Staff required a condition to construct a one-car carport on the existing paved surface in order to make the finding that properties were consistent with the Single Family Residence Parking Regulations that were in effect at the time of the approval using the proposed parking locations identified on the plans for the LLA. At the June 3, 2009 Staff Hearing Officer meeting for the LLA it was discussed that the requirement to construct a one-car carport would not preclude that a two-car garage may later be proposed. The zoning ordinance allows for a garage size of up to 750 square feet to be constructed on lots zoned A-1 or on E-1 lots of greater than 20,000 square feet (SBMC §28.87.160.D.)

#### **F. 1402 Grand Avenue Garage Placement and Design**

The appellant states (page 5, section a) that the garage style and location is not compatible with the surrounding neighborhood which has garages adjacent to or as a part of the residence. In addition, the appellant feels that the garage design is not consistent with the existing architecture and should be sited closer to the front door of the residence.

The SFDB has reviewed the proposal and considered the location of the garage, size, and site topography and determined that the project is compatible with the neighborhood. (meeting minutes are included as Attachment 2). The first time the project was reviewed, covered parking was not proposed. Following the approval of the LLA, the project returned to the SFDB and requested at two-car garage that complies with the Zoning Ordinance.

#### **G. Staff Bias and Mistakes**

On page 6 under comment g. of the appellant's letter, it states that the minute's bold address, property owner information was amended from the agenda language. The

agenda for the July 5, 2011 and August 22, 2011 review by the SFDB did not include both property owners' names but did include the both addresses and parcel numbers within the body of the project description. Staff acknowledged the August 22, 2011 error at the meeting and did correct the SFDB minutes to reflect the omitted items which were raised by Mr. Fisher.

Staff strongly objects to the mischaracterization of City staff intentions and actions relative to the appellants' allegations of bias and inappropriate actions. The three incidents described on page 6 under section j of the appellant's letter relate to a previous case, properties other than the subject of this appeal, and the incidents have no relation to the SFDBs approval of the project that is under appeal.

**CONCLUSION:**

The proposed project has undergone a thorough review by staff, the SFDB and the Staff Hearing Officer. It is staff's position that appropriate consideration has been given to the appellant's issues as part of the SFDB and Staff Hearing Officer review process, the project is compatible with the neighborhood and the project is consistent with the Zoning Ordinance.

**ATTACHMENT(S):**

1. Appellant's letter dated 9/8/11
2. Applicant's letter dated 9/26/11
3. Plans approved by the SFDB
4. Design Review Activities Summary
5. Arborist's Reports prepared by Duke McPherson
6. SHO Resolution 046-09
7. SHO Minutes dated 7/27/11, 6/30/10 and 6/3/09

**PREPARED BY:** Suzanne Riegle, Assistant Planner

**SUBMITTED BY:** Paul Casey, Assistant City Administrator/Community Development Director

**APPROVED BY:** City Administrator's Office

**Tony Fischer  
Attorney at Law  
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Santa Barbara, CA 93105  
Tel: 805 563 6784  
fischlaw@cox.net**

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CITY OF SANTA BARBARA  
CITY CLERK'S OFFICE

September 8, 2011

**Mayor Helene Schneider and Members of the City Council**

City of Santa Barbara  
City Hall at De La Guerra Plaza  
Santa Barbara CA 93101

**RE: Notice of Appeals of Single Family Design Board (hereinafter SFDB) actions and decisions related to the following:**

- A. lot-line adjustment between 860 Jimeno Road and 1402 Grand Ave. which takes land from the smaller lot and adds it to the larger lot;**
- B. as-built construction on both lots;**
- C. proposed new construction at 860 Jimeno (new entry to as-built understory);**
- D. as-built parking and driveway under the drip line of a majestic Oak after removal of historical stone wall;**
- E. construction of an oversized two car garage in lieu of a carport required as part of the final approval of a lot line adjustment by the Staff Hearing Officer in Resolution # 046-2009 dated June 3, 2009. That approval was not appealed and is final;**
- F. the garage design and placement violates the requirement to be compatible with the neighborhood which has garages adjacent to or as part of the dwelling. The roof line, height, size and location are not compatible with the house. The size and location is poor planning if intended to be used as a two car garage for a single family house. The size and placement make it more conducive to being used as an accessory building for the vacation rental business operated illegally by the current owners in A-1/E-1 single-family zones; and**
- G. numerous example of bias and mistakes by City building and staff which have resulted in the flawed process.**

**Dear Honorable Mayor Schneider and Members of the City Council:**

This appeal is filed on behalf of Mike Cahill and Linda Cahill of the actions and decisions of the SFDB and city staff members. Mr. and Mrs. Cahill and their family have lived adjacent to the two lots for more than thirty years. A prior appeal of preliminary and final approval actions of the SFDB was filed on July 11, 2011. As documented in the attachments submitted with this appeal, the staff in the City Clerk's office was erroneously instructed to not accept or process as required by the Municipal Code and the City Charter. The City Planner has claimed responsibility for the erroneous oral instructions to the City Clerk and has apologized for the errors.



**Prior Appeal History.** The appeal filed on July 11, 2011 will now be processed with this appeal. As a result of the erroneous advice by the Community Development Department and numerous errors in descriptions of the project status and processing, the SFDB Members were never accurately informed and were improperly restricted in the exercise of discretion by City staff who prepared erroneous descriptions of the projects and then attended SFDB meetings and gave erroneous advice regarding the role of the SFDB. Because staff will likely refer to minutes of those meetings, it is important to keep in mind that due to erroneous information the review of the project was improperly on the consent agenda. SFDB members were misled by staff as to the other reviews and appeals of the project. Consent Agenda hearings are not broadcast and no one makes an official video or tape record. The resulting minutes are full of errors and misrepresentations.

When the Staff Hearing Officer approved on July 27, 2011 an application for an extension of the expiration date of the 2009 lot line adjustment approval, the undersigned filed a timely appeal. Staff has erroneously attempted to reject that appeal. The staff takes the position that the change in the size, design and location of covered parking is subject only to staff approval and that the Staff Hearing Officer only approved a date extension. The Agenda and minutes of the State Hearing Officer suggest that is what happened. However, as stated below, the extension was appealed timely and the staff does not have the power to make a change in the condition of approval which became final when no appeal was filed.

This appeal grows out of the relatively long history of construction without proper permits and approvals carried out by Todd Drevo and Melanie Cava Drevo, the managers of Midwest Institution, LLC. The Limited Liability Company purchased the property from the prior owners who had proposed with staff support the construction of a 6,000+ square foot mansion on the very steep sloped lot at 1402 Grand. That out of scale project was rejected by the City Council at the request of the neighbors despite the strong support from City staff. The processing of that project was one of the proposed projects which highlighted the need for Single Family Design Guidelines.

Significant to these sites is the fact that the properties are in the high fire hazard zone of the City and although 1402 Grand is more than five acres but with a very limited buildable site due to the steep terrain. Transient occupancy is not compatible with a high fire zone. Midwest Institution then obtained approval to remove illegal additions to the house which had been identified in the Zoning Information Report and to replace the exterior surfaces. During that process, the house, instead of being restored to its original modest and approved size, became larger and the accessory building was converted to livable space. That allowed Midwest Institution to have sleeping space for ten to twelve persons, as advertised.

Todd Drevo and Melanie Cava Drevo purchased the second property involved in this lot line adjustment at 860 Jimeno Rd. The property had been owned for more than thirty years by Mr. and Mrs. Pedersen who had joined in the opposition to the prior proposed development at 1402 Grand. The Pedersen property had an easement for access to Grand Avenue over the 600 foot long driveway leading from the end of Grand Avenue to the 1402 Grand Avenue house originally built by Mr. and Mrs. Largura. Todd Drevo and Melanie Cava Drevo, immediately began, without approvals or permits, to create a finished understory to expand the size of the house and to convert covered parking to living space. They removed a stone wall which followed the property line and provided protection to the large majestic Oak tree on the 860 Jimeno Drive property. They installed parking under the Oak. The parking use continues to the present despite SFDB and SHO decisions calling for the protection of the area under the drip line of the Oak. It is important to note that Mr. and Mrs. Drevo and their agent have repeatedly represented to the SFDB that the stone wall existed. Google Maps includes aerial photos showing the wall before it was destroyed and before the area under the Oak tree was converted to parking. The maps also show the current configuration which is part of the project for which the owners are seeking approval.

Todd and Melanie Cava Drevo then sold the 860 Jimeno Rd property to Joseph Yob and Joyce Yob. As part of the sale, the parties agreed to attempt to process a lot line adjustment transferring a part of the Yob's smaller lot to the larger lot controlled by Drevo. In addition, the easement held by the 860 Jimeno Road property over the 1402 Grand Avenue property was eliminated and the 1402 Grand property was granted an easement to use the 860 Jimeno Road driveway in an emergency.

In addition to the illegal construction of Alan block walls at 1402 Grand and the expansion of the house and livable space in the accessory building, the single-family zoned property was advertized and used as a hotel by Midwest Institution year after year. The ads described the five acre site with sleeping for 10-12 persons with daily and weekly rental rates. After neighbors repeatedly provided information to the City enforcement offices, including the Finance Department, the City Attorney filed a lawsuit seeking damages for the illegal hotel use and an injunction against future illegal use. That lawsuit was settled shortly after it was filed by the payment of a \$5,000.00 fine and the issuance of an injunction against future hotel operations. That amount is likely far less than the unpaid transient occupancy tax which was due to the City for operation of the hotel. Payment of the transient occupancy tax is due to the City even if the use is illegal. Payment of the tax does not allow violation of the zoning restrictions to single family use. A weekly summer rental rate, as advertized, was \$4,795.00. Despite the fact the settlement included an injunction against future hotel usage, the property has continued to have short term tenants despite the representations to the contrary.

1. Planning issues:

- a. Garage location is not suitable for use with the house because of the distance from the house which includes the fact that the proposed garage elevation is significantly above the top floor level of the house. The garage location would actually be more convenient to either the single family house at 860 Jimeno or the Cahill single family home at 810 Largura. Also, 1402 Grand would be the only house in the area which does not have the garage immediately adjacent to or attached to the house. The property has adequate space in the area adjacent to the house for a garage. That would be a more appropriate location and would eliminate the problems with the majestic Oak and the impact on the neighborhood. However, it would need to have approval from the SHO for a change to the conditions of approval of the lot line adjustment which still require the construction of the carport on the existing concrete parking area nearer the 1402 Grand single family house.
- b. The requirement to construct a carport above an existing concrete pad was not objected to by the Applicants and it was approved by the Staff Hearing Officer and no one appealed. That decision is contained in Resolution #046-2009. It is noted that in a subsequent staff report staff erroneously stated that an appeal had been filed. The Lot Line Adjustment Agreement recently being processed by Public Works and signed by the Midwest Institution and Mr. and Mrs. Yob states that the lot line adjustment is subject to the conditions in Staff Hearing Officer Resolution # 046-09 dated June 3, 2009.
- c. The decision to require the carport to be located on the existing concrete was to minimize new concrete or asphalt and to restrict the use of the area under the drip line of the Oak trees. The new location is not consistent with those objectives.
- d. The proposed two car garage is oversized. The garage is 27 feet long which allows for other accessory building uses and increases the size of the area converted to paved surface. The property has another accessory building. The drawings submitted to the SFDB contain errors which were identified during the final consent agenda hearing. The pedestrian door would open to a drop-off. It was improper to merely point out the problem when the drawings do not reflect a drop-off exists. The survey map provided by the Applicants appears to be two surveys (one for 1402 Grand and one for 860 Jimeno) and the elevations are misleading.
- e. Based upon location and history, this new building will not be used as a garage but will be used to house the vacation rental business. That use is not appropriate in the single-family zone.

- f. Staff approvals are not valid. Staff is expected to argue that Staff has the authority to change the conditions of approval of a lot line adjustment. There is no grant of authority in the Municipal Code allowing staff to replace or change a condition imposed by the local agency at the time of approval of a lot line adjustment after notice and hearing pursuant to Title 27 of the Municipal Code. . Simply stated, if an individual staff member has the authority to change a condition of approval, it makes no sense to have a required process involving the public hearing, a decision and a right of appeal. Why even have a process involving appeals to the Planning Commission or City Council if the staff member can sit down with the Applicants behind closed doors and agree to implement a change? There is no such valid delegation of authority and the purported exercise of such authority is a violation of the Municipal Code and due process.
- g. The City Council needs to be aware that minutes of the meetings of the SFDB as approved are not accurate. The information included in the Agenda has been changed by staff when the “minutes” were drafted. This took place after the July 5 and the August 22 meeting. The SFDB Chair is apparently of the view that minutes need not be accurate or complete because when the potential errors were noted, the Chair proceeded to ignore the information. For the record, the August 22 meeting minutes do not accurately state:
  - i. The names of the owners as stated at the time of the hearing. It is noted that on July 5, 2011 the mailed agenda listed one of the two properties yet the minutes list both.
  - ii. The zoning of the property is not accurate on the Aug. 22 agenda or minutes.
  - iii. The minutes are erroneous as to persons and as to persons present and persons allowed to speak. Mrs. Cahill was present but denied the right to speak. The minutes state otherwise. Staff persons present and involved in the meeting are not even included in the list of persons in attendance.
  - iv. The agenda for the meeting stated that SHO approval was pending for the change in conditions regarding the substitution of an oversized garage at a different location than the approved carport. The wording of the agenda was changed when the minutes were prepared to state that the staff had approved the change in location and size. That is highly deceiving.
  - v. Public comment was not referenced in the minutes. The public comment cited the need for accurate minutes of all SFDB meetings.
- h. Pursuant to Title 27 of the Municipal Code, the conditions of approval of a lot line adjustment can only be changed by following the same process used to adopt the



initial approval. In other words, a noticed hearing before the Staff Hearing Officer and a decision by the Staff Hearing Officer is necessary to change a condition of approval. That was not done.

- i. The appeal of the decision of the staff hearing officer to extend the appeal time was not processed by the staff. As a result, the SFDB was erroneously informed regarding the status of other approvals. The SB Municipal Code provides for an appeal of all decisions of the Staff Hearing Officer by filing an appeal within ten days. The code also provides that the Applicant can file its appeal within 15 days. The provision which allows an Applicant 15 days to appeal does not eliminate the right to appeal within the other code section. The staff has adopted an erroneous interpretation of the Code.

- j. There is a history of staff bias which resulted in flawed process and planning.

(1). Regarding the Kohler projects for 6000 sq. ft. house. The project was rejected at City Council but that rejection was one action cited by the City's supervisor of project processing as a reason for his personal dislike of the neighbors and their attorney. He voiced similar anger when other projects supported by staff were rejected or not built. That personal bias was contained in an email sent by the Supervisor of project review and addressed to his superiors.

(2). Another neighbor proposed a major expansion at 812 Largura. It was opposed and the reduced size project was abandoned by the owner as not reasonable on the steep slopes. Staff ultimately "approved" an illegal expansion of a deck even after it was learned and agreed by staff that a building inspector had assisted in creation of a false record of approval. This project was one cited by the Supervisor as a reason for his strong personal dislike of the neighbors.

(3). When the Cahills hired a contractor to resurface their driveway, the building inspector issued a stop work order, refused to give final approval and engaged in unprofessional verbal abuse of the contractor. That was challenged and the final inspection denial was reversed. The same inspector had attempted to get the neighbor to not object to the false record of approval of the deck and clearly displayed his anger when he was not successful. During that investigation it was learned the inspector also requested a Public Works employee to explore taking action against the Cahills. The Public Works employee declined. The actions of the inspector were reported to Human Relations but the results of the investigation were not made public.

In conclusion, the Appellants request the City Council to take a site visit and reverse the actions of the SFDB related to the purported garage with the intent of relocating the garage to the northwest side of the house or enforcing the conditions of approval which require the carport to

be built on the existing concrete slab. The protections of the Oak as stated in SHO Resolution 046-2009 need to be followed.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Tony Fischer". The signature is fluid and cursive, with the first name "Tony" written in a larger, more prominent script than the last name "Fischer".

Tony Fischer, Attorney  
for Mike and Linda Cahill

Attachments:

City Clerk file materials.

Appeal of SHO action to Planning Commission

Copy of VRBO ad.

Emails to and from Bettie Weiss, City Planner

**Tony Fischer**

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**From:** "Rodriguez, Cyndi" <CMRodriguez@SantaBarbaraCA.gov>  
**To:** "Tony Fischer" <fischlaw@cox.net>  
**Cc:** "Wiley, Stephen" <SWiley@SantaBarbaraCA.gov>; "Lopez, Marcelo A." <MLopez@SantaBarbaraCA.gov>; "Casey, Paul" <PCasey@SantaBarbaraCA.gov>; "Weiss, Bettie" <BWeiss@SantaBarbaraCA.gov>  
**Sent:** Friday, August 12, 2011 4:32 PM  
**Attach:** Appeal\_File,\_860\_Jimeno\_+\_1402\_Grand.pdf  
**Subject:** Request for Records  
Tony,

Per your request, attached is a scanned copy of the documents the City Clerk's Office has on file regarding 806 Jimeno/1402 Grand Avenue.

Cyndi Rodriguez, CMC  
City Clerk Services Manager  
City of Santa Barbara  
(805) 564-5309  
cmrodriguez@SantaBarbaraCa.gov

8/13/2011

OKIG LTR HNU HHTAL FEE REIMBURY  
8/4/11: APPEAL NOT APPROPRIATE  
AT THIS TIME

RECEIVED

2011 JUL 11 AM 8:53

CITY OF SANTA BARBARA  
CITY CLERK'S OFFICE

July 8, 2011

To: City of Santa Barbara  
(Hand delivered to City Clerk's Office)

From: Mike and Linda Cahill 708 4903  
810 Largura Place,  
Santa Barbara, CA 93103

SUBJECT: Appeal of the July 5, 2011 Single Family Design Board's Approvals concerning:  
Item #1. 860 Jimeno Road, and 1402 Grand Avenue.

**Bases for Appeal:**

1. Project architecture is not compatible and for all of the objections stated to the approval of the project at SFDB and SHO. In addition the approval after the lot line adjustment has expired is inappropriate. The SFDB based its decision on the Applicant's expression of an intent to explore changing the roof line of the house in the future. That same expression of intent was made years ago but it is not based on fact. In any event, a future intention is not a basis to make a finding of compatibility."
2. No discussion was held concerning the 10" height increase and its impacts from 11'3" to 12' 1".

NOTE: Copy of this appeal should go to the SHO. We are told the SHO will be Suzie Reardon. The SHO hearing is scheduled for July 13, 2011.

Mike Cahill and Linda P. Cahill

Mike Cahill and Linda P. Cahill

Cc: Tony Fischer, Attorney  
2208 Anacapa Street  
Santa Barbara, CA 93105

Note: The Cahill's will not be available  
the first two weeks of August 2011



**CITY OF SANTA BARBARA  
CALIFORNIA**

**A** 79666

**DIVISION: CITY CLERK'S OFFICE**

Date July 11, 20 11

Received from Mike Cahill  
Four hundred thirty 40/100 Dollars  
for appeal of SFDB decision re: EEO Jimeno Fund,  
and 1462 Grand Avenue

\$ 430.00

Acct. No. \_\_\_\_\_

Tran Code \_\_\_\_\_

By CM Rodriguez  
Title City Clerk Services Manager

**NOTICE:**

1. On Thursday, June 30, 2011, this Agenda was duly posted on the indoor and outdoor bulletin boards at the Community Development Department, 630 Garden Street, and online at [www.SantaBarbaraCa.gov](http://www.SantaBarbaraCa.gov).
2. This regular meeting of the Single Family Design Board will be broadcast live on City TV-18, or on your computer via <http://www.santabarbaraca.gov/Government/Video/> and then clicking City TV-18 Live Broadcast. City TV-18 will also rebroadcast this meeting in its entirety the following Wednesday morning at 8:00 a.m. An archived video copy of this meeting will be viewable on computers with high speed internet access the following Wednesday at [www.santabarbaraca.gov/sfdb](http://www.santabarbaraca.gov/sfdb) and then clicking *Online Meetings*.

**GENERAL BUSINESS:****A. Public Comment:**

Any member of the public may address the Single Family Design Board for up to two minutes on any subject within their jurisdiction that is not scheduled for a public discussion before the Board on that day. The total time for this item is ten minutes. (Public comment for items scheduled on today's agenda will be taken at the time the item is heard.)

**B. Approval of the minutes of the Single Family Design Board meeting of June 20, 2011.****C. Consent Calendar: June 27, 2011; and July 5, 2011.****D. Announcements, requests by applicants for continuances and withdrawals, future agenda items, and appeals.****E. Subcommittee Reports.****SFDB-CONCEPT REVIEW (CONT.)****1. 860 JIMENO RD****E-1 Zone****(3:10)**

Assessor's Parcel Number: 029-110-037

Application Number: MST2008-00402

Agent: Richele Mailand

Owner: Joyce and Joe Yob

(This project has been revised to add a 562 square foot detached two-car garage for 1402 Grand Avenue and the proposed total of 3,401 square feet on the 5.2 acre lot is 47% of the maximum floor-to-lot area ratio. Staff Hearing Officer determination of substantial conformance is requested. Proposal for a lot-line adjustment to decrease 860 Jimeno Road and increase 1402 Grand Avenue by 3,140 square feet. Resulting lot sizes would be 22,598 and 226,973 square feet (5.2 acres) respectively. The lots are located in the Hillside Design District. The project includes a new entry gate and "as-built" changes to the stone walls along the driveway at 1402 Grand Avenue. The project also includes alterations to the residence at 860 Jimeno Road consisting of replacement of an existing window with new French door, adding a new window, and converting the existing permitted understory to habitable space. Staff Hearing Officer approval is requested for the lot-line adjustment.)

(Comments only; a Staff Hearing Officer hearing is scheduled for July 13, 2011, for a requested time extension for the lot-line adjustment (Resolution No. 046-09)).



**City of Santa Barbara**  
City Clerk's Office

**Memorandum**

**DATE:** July 18, 2011

**TO:** James Armstrong, City Administrator  
Stephen Wiley, City Attorney  
Paul Casey, Community Development Director  
Jaime Limón, Planning Division

**FROM:** Cynthia M. Rodriguez, CMC, City Clerk Services Manager  
Susan Tschech, Deputy City Clerk

**SUBJECT:** Receipt of Appeal

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The following described appeal was filed with the City Clerk's Office on July 11. A copy of the appeal letter is attached.

**Name of Appellant:** Mike and Linda Cahill

**Body which made decision being appealed:** Single Family Design Board

**Date of meeting at which decision was made:** July 5, 2011

**Decision(s):** Concept Review Approval

**Name of Property Owner (if different than Appellant):** Joyce and Joe Yob

**Address of property in question:** 860 Jimeno Road/1402 Grand Avenue

**Suggested hearing date:** ?. Our office will coordinate the setting of the hearing date with Staff and the parties to the appeal.



# City of Santa Barbara

City Clerk's Office

[www.SantaBarbaraCA.gov](http://www.SantaBarbaraCA.gov)

735 Anacapa Street  
P.O. Box 1990  
Santa Barbara, CA  
93102-1990  
Tel.: 805.564.5309  
Fax: 805.897.2623

August 4, 2011

Mike Cahill  
810 Largura Place  
Santa Barbara, CA 93103

Re: Appeal of July 5, 2011 Single Family Design Board Review of Project at 860 Jimeno Road

Dear Mike,

Enclosed are your letter and check for an appeal of the Single Family Design Board's July 5, 2011, review of the project at 860 Jimeno Road. Per my discussion with Planning Division staff on July 19, 2011, because the Board made comments only about the project on July 5 and an approval decision was not made, an appeal of that review cannot be made.

Sincerely,

CYNTHIA M. RODRIGUEZ, CMC  
CITY CLERK SERVICES MANAGER

A handwritten signature in cursive script, appearing to read "Susan", is located below the typed name.

Susan Tschech  
Deputy City Clerk

**Rodriguez, Cyndi**

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**From:** Rodriguez, Cyndi  
**Sent:** Wednesday, August 03, 2011 2:32 PM  
**To:** 'Tony Fischer'  
**Cc:** Lopez, Marcelo A.  
**Subject:** RE: Files--appeal 1402 Grand  
Hi Tony,

The only correspondence we have on file is the letter filed by Mr. Cahill, dated July 8, 2011, which he CC'd you on the letter. Please let me know if you would like another copy.

Given the staff shortages in the City Clerk's Division, we frequently close at noon.

Cyndi Rodriguez, CMC  
City Clerk Services Manager  
City of Santa Barbara  
(805) 564-5309  
cmrodriguez@SantaBarbaraCa.gov

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**From:** Tony Fischer [mailto:fischlaw@cox.net]  
**Sent:** Wednesday, August 03, 2011 2:03 PM  
**To:** Rodriguez, Cyndi  
**Cc:** Lopez, Marcelo A.  
**Subject:** Files--appeal 1402 Grand

I was at City Hall at 12:15 today to see the appeal file and any related correspondence regarding the appeal of ABR votes and processing. The office had a closed sign and the person guarding city hall restrooms told me the office is always closed at noon. True? Can you forward via email attachment the items requested?

Thank you.

Tony Fischer, Attorney  
[fischlaw@cox.net](mailto:fischlaw@cox.net)  
563 6784

8/10/2011

**Rodriguez, Cyndi**

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**From:** Tony Fischer [fischlaw@cox.net]  
**Sent:** Friday, August 05, 2011 1:17 PM  
**To:** Rodriguez, Cyndi  
**Cc:** Lopez, Marcelo A.  
**Subject:** Fw: Appeal: SFDB July 5 1402 Grand/860 Jimeno  
**Attachments:** Minutes July 5 2011 SFDB.pdf

— Original Message —

**From:** Tony Fischer  
**To:** [crodriguez@santabarbaraca.gov](mailto:crodriguez@santabarbaraca.gov)  
**Sent:** Friday, August 05, 2011 1:10 PM  
**Subject:** Fw: Appeal: SFDB July 5 1402 Grand/860 Jimeno

— Original Message —

**From:** Tony Fischer  
**To:** [crodriguez@santabarbaraca.gov](mailto:crodriguez@santabarbaraca.gov)  
**Cc:** [mlopez@santabarbaraca.gov](mailto:mlopez@santabarbaraca.gov)  
**Sent:** Friday, August 05, 2011 12:58 PM  
**Subject:** Appeal: SFDB July 5 1402 Grand/860 Jimeno

Cynthia M. Rodriguez, CMC, City Clerk Services Manager, City of Santa Barbara  
Dear Ms. Rodriguez:

Following up my request for the documents related to the referenced appeal, attached please find a copy of the pertinent minutes (Approved by SFDB Full Board) of the July 5 meeting. Please put a copy of this email and the minutes with the records related to the appeal filed by Mr. and Mrs. Cahill regarding the Single Family Design Board actions on July 5, 2011. The file should then have, in addition to this email and attachment, a copy of the Appeal, the receipt for payment (or copy of the check) of the Appeal, and the telephone message notes regarding the call from the Project Planner, Ms. Riegle, on July 19 regarding the action of the SFDB. Also, please print out and include a copy of the prior emails we have exchanged regarding this matter. Further, if you have any other information or determination by any City employee showing that the minutes attached do not reflect accurately the motions made and passed on July 5, 2011, please provide that information. Your cooperation will be appreciated.

Very truly yours,  
Tony Fischer, Attorney for Mike and Linda Cahill  
2208 Anacapa Street  
Santa Barbara, CA 93105  
[fischlaw@cox.net](mailto:fischlaw@cox.net)  
805 563 6784

8/10/2011



**Tony Fischer**  
**Attorney at Law**  
**2208 Anacapa Street**  
**Santa Barbara, CA 93105**  
**Tel: 805 563 6784**  
**fischlaw@cox.net**

**August 10, 2011**

**Cynthia M. Rodriguez, CMC,**  
**City Clerk Services Manager, City of Santa Barbara**  
**City Hall,**  
**Santa Barbara, CA 93101**

**RE: Appeal of SFDB decision involving 860 Jimeno and 1402 Grand**

**Dear Ms. Rodriguez:**

I am now aware that you have attempted to frustrate and interfere with the rights of Mr. and Mrs. Cahill to have a hearing on the appeal from the July 5, 2011 decision of the SFDB regarding the lot-line adjustments, "as-built" and future construction involving the properties at 860 Jimeno Road and 1402 Grand Avenue. After timely receipt of the appeal and fees, you took no action regarding processing the appeal. As you know, I came to your offices to inspect the file on August 4, 2011. Apparently, thereafter you decided to return appeal documents to Mr. and Mrs. Cahill. That timing appears tied to the fact that from the appeal document you knew they would not be available during the first two weeks of August.

After claiming you had no access or information regarding the SFDB's actions, I provided to you a copy of the minutes which clearly states the SFDB did take action. The minutes were and are available to you at the on-line posting available to the public and to all city staff. As you also know from prior experience and past practices, a citizen, and in particular, an adjacent property owner has a right to a hearing and appeal of a decision of the SFDB. It is the duty of your office to process the appeal despite any wrongful attempt by a staff planner either working alone or with others, to stop the appeal rights of a property owner. Apparently, the project planner contends, contrary to the minutes, that the SFDB only made comments. That contention is not based upon a good faith attempt to understand what happened on July 5, 2011.

When public officials, either working alone or in concert with others, take away the rights of a property owner to be heard, our system of due process which protects the civil rights of all, is put in jeopardy. It is not to be taken lightly.

I am requesting that you immediately make available a copy of all correspondence or communications received and/or sent by your office regarding this Appeal and that you take the appropriate steps to process the appeal.

I can be reached at 805 563 6784 and my email is fischlaw@cox.net.

Very truly yours,

  
Tony Fischer, Attorney for Mike and Linda Cahill



# City of Santa Barbara

## Planning Division

### SINGLE FAMILY DESIGN BOARD MINUTES

**TUESDAY, July 5, 2011**

**David Gebhard Public Meeting Room: 630 Garden Street**

**3:00 P.M.**

**BOARD MEMBERS:**

GLEN DEISLER, CHAIR - PRESENT  
DENISE WOOLERY, VICE-CHAIR - PRESENT  
BERNI BERNSTEIN - PRESENT  
BRIAN MILLER - PRESENT  
JIM ZIMMERMAN - PRESENT  
FRED SWEENEY - ABSENT

**CITY COUNCIL LIAISON:** DALE FRANCISCO - ABSENT

**PLANNING COMMISSION LIAISON:** MICHAEL JORDAN - ABSENT

**STAFF:**

JAIME LIMÓN, Design Review Supervisor - ABSENT  
MICHELLE BEDARD, Planning Technician - PRESENT  
GLORIA SHAFER, Commission Secretary - PRESENT

**Website: [www.SantaBarbaraCa.gov](http://www.SantaBarbaraCa.gov)**

<b>SINGLE FAMILY DESIGN BOARD SUBMITTAL CHECKLIST</b> (See ABR Guidelines & Design Review Submittal Requirements for Details)		
<b>CONCEPT REVIEW</b>	Required	<b>Master Application &amp; Submittal Fee</b> - (Location: 630 Garden Street) <b>Photographs</b> - of the existing building (if any), adjacent structures, composite panoramic view of the site, surrounding areas & neighborhood streetscape - mounted or folded to no larger than an 8.5" x 14" photo display board. <b>Plans</b> - three sets of <u>folded</u> plans are required at the time of submittal & each time plans are revised. <b>Vicinity Map and Project Tabulations</b> - (include on first drawing) <b>Site Plan</b> - drawn to scale showing the property boundaries, existing & proposed structures, building & area square footages, building height, areas to be demolished, parking, site topography, conceptual grading & retaining walls, & existing landscaping. Include footprints of adjacent structures. <b>Exterior elevations</b> - showing existing & proposed grading where applicable.
	Suggested	<b>Site Sections</b> - showing the relationship of the proposed building & grading where applicable. <b>Plans</b> - floor, roof, etc. <b>Rough sketches</b> are encouraged early in the process for initial design review to avoid pursuing incompatible proposals. However, more complete & thorough information is recommended to facilitate an efficient review of the project.
<b>PROJECT DESIGN APPROVAL</b>	Required	Same as above with the following additions: <b>Plans</b> - floor, roof, etc. <b>Site Sections</b> - showing the relationship of the proposed building & grading where applicable. <b>Preliminary Landscape Plans</b> - required for commercial & multi-family, single-family projects where grading occurs. Preliminary planting plan with proposed trees & shrubs & plant list with names. Plans to include street parkway strips.
	Suggested	<b>Color &amp; Material Samples</b> - to be mounted on a board no larger than 8.5" x 14" & detailed on all sets of plans. <b>Exterior Details</b> - windows, doors, eaves, railings, chimney caps, flashing, etc. Materials submitted for Project Design Approval form the basis for working drawings & must be complete & accurate.
<b>FINAL &amp; CONSENT</b>	Required	Same as above with the following additions: <b>Color &amp; Material Samples</b> - to be mounted on a board no larger than 8.5" x 14" and detailed on all sets of plans. <b>Cut Sheets</b> - exterior light fixtures and accessories where applicable. <b>Exterior Details</b> - windows, doors, eaves, railings, chimney caps, flashing, etc. <b>Final Landscape Plans</b> - landscape construction documents including planting & irrigation plan. <b>Consultant/Engineer Plans</b> - electrical, mechanical, structural, & plumbing where applicable.



**SFDB-CONCEPT REVIEW (CONT.)****1. 860 JIMENO RD AND 1402 GRAND AVE****E-1 Zone**

Assessor's Parcel Number: 029-110-037

Application Number: MST2008-00402

Agent: Richele Mailand

Owner: Joyce and Joe Yob

(This project has been revised to add a 562 square foot detached two-car garage for 1402 Grand Avenue and the proposed total of 3,401 square feet on the 5.2 acre lot is 47% of the maximum floor-to-lot area ratio. Staff Hearing Officer determination of substantial conformance is requested. Proposal for a lot-line adjustment to decrease 860 Jimeno Road and increase 1402 Grand Avenue by 3,140 square feet. Resulting lot sizes would be 22,598 and 226,973 square feet (5.2 acres) respectively. The lots are located in the Hillside Design District. The project includes a new entry gate and "as-built" changes to the stone walls along the driveway at 1402 Grand Avenue. The project also includes alterations to the residence at 860 Jimeno Road consisting of replacement of an existing window with new French door, adding a new window, and converting the existing permitted understory to habitable space. Staff Hearing Officer approval is requested for the lot-line adjustment.)

(Comments only; a Staff Hearing Officer hearing is scheduled for July 13, 2011, for a requested time extension for the lot-line adjustment [Resolution No. 046-09]).

(3:21)

Present: Richele Mailand, Agent.

Suzanne Riegle, Associate Planner, clarified for the Board transportation requirements and minor project changes.

Public comment opened at 3:34 p.m.

Patrick Corrigan, addressed concerns regarding the integrity of the 2.5 foot retaining wall separating the site from his neighboring property.

Linda Cahill, opposed; addressed concerns regarding the zoning and history of use of the site; proposed garage proximity to Ms. Cahill's property and potential obstruction of views.

Public comment closed at 3:43 p.m.

**Motion 1: Project Design Approval and Final Approval for the portion of the project at 860 Jimeno Road, with the finding that the Neighborhood Preservation Ordinance criteria have been met as stated in Subsection 22.69.050 of the City of Santa Barbara Municipal Code with window changes contingent upon the Staff Hearing Officer time extension approval.**

**Action:** 1) Findings for quality materials and neighborhood compatibility were made. Woolery/Zimmerman, 4/0/0. Motion carried. (Bernstein/Sweeney absent).

**Motion 2: Continued indefinitely to the Staff Hearing Officer and return to Consent Calendar for the portion of the project at 1402 Grand Avenue with the following comments:**

- 1) The project received positive comments on location and size of proposed garage structure; hammerhead turnaround, fire accessibility, entry gates, and Allan Block wall.
- 2) Provide landscape screening of the garage from the uphill neighbor, which does not exceed the garage height. Provide landscape details when returning to Consent Calendar.

**Action:** Woolery/Miller, 4/0/0. Motion carried. (Bernstein/Sweeney absent).

**Tony Fischer  
Attorney at Law  
2208 Anacapa Street  
Santa Barbara, CA 93105  
Tel: 805 563 6784  
fischlaw@cox.net  
August 8, 2011**

Planning Commission, City of Santa Barbara  
630 Garden Street  
Santa Barbara CA 93105

(With Copy to Mayor and City Council Members)

**RE: Notice of Appeal of changed conditions and  
time extension for lot line adjustment at 860 Jimeno and 1402 Grand approved by  
SHO on July 27, 2011.**

**Dear Honorable Chair and Members of the Planning Commission:**

This is an appeal filed on behalf of Mike and Linda Cahill of the actions of the Staff Hearing Officer/Planner, Susanne Reardon acting under the direction of Danny Kato, City Planner and Susanne Riegle, Staff Planner.

This appeal is based upon the issues raised in that communication from the undersigned to the SHO (copy attached) before the SHO approved the changes in the conditions of approval and the expansion of the project on July 27, 2011. The issues were not considered based upon flawed reasoning and based upon improper direction from the staff, including the immediate supervisor, of the Staff Hearing Officer. In addition, the appeal is based upon

- (1) The failure of the SHO to review and evaluate the evidence related to the current status of the proposed lot line adjustment. As evidenced in the attached copy of an exchange of emails, the staff planner did not have documentation regarding the alleged status of the processing of the alleged lot line adjustment process. The files of the persons in Public Works handling the lot line adjustment could not be located and made available to the undersigned. As a result, additional issues will be cited when the files are located and made available.
- (2) The failure of the staff and SHO to evaluate the proposed site of the accessory building/garage to verify that it can be built as shown on the drawings. The drawings do not accurately display the site slope conditions and the proposed structure. A proper site visit with the building location as proposed carefully staked should reveal the exact

location of the proposed structure and the slope at that location. The construction on steep slopes is contrary to Single Family Design Guidelines and the General Plan.

- (3) The hearing on July 27, 2011 was the first time at a noticed hearing the public was provided the opportunity to review and comment upon the proposed changes to the conditions of approval regarding the location of the covered parking space . Unfortunately, in an attempt to deprive the neighbor of an attempt to provide pertinent information, the SHO and staff planner took the position that this clearly relevant information would not be considered by the SHO who was acting under direction of her immediate supervisor who signed the staff recommendation.
- (4) A condition of approval of the lot line adjustment in 2009 was the requirement that staff visit the site of the residence at 1402 Grand and determine the actual as-built size of the residence in view of the apparent expansion which took place despite the fact that the only permit issued to the current owners was a permit to change the exterior skin of the structure and to remove the illegally added enclosed spaces which had been created by prior owner(s). Where is that information? It is noted that the current size of the house allows for expanded vacation rental use at the higher rental rates and increases the parking burdens on the site.
- (5) Contrary to the characterization of the petition signed by the neighbors, the "petition" as worded is supportive of the original conditions of approval of the lot line adjustment and do not indicate approval of a 600 square foot accessory /garage /storage building located too far from the dwelling to be used as a garage. The letter in support from Francesca Cava, who describes herself as a neighbor, does not reveal that she is a sister to an owner. Ms. Cava is also engaged in the business of vacation rentals and has been supportive of the illegal use of the property at 1402 Grand Avenue.
- (6) The SFDB clearly requested that any proposed two car garage not located near the house be limited to 20 feet in length and to be located more than 19 feet from the property line. Those requests were denied by the Staff and the SFDB was improperly told it had to approve the larger building located closer to the property line.

Please contact the undersigned about scheduling the appeal hearing before the Planning Commission.

Very truly yours,

Tony Fischer, Attorney  
for Mike and Linda Cahill

To: Suzanne Reardon, Staff Hearing Officer  
From: Tony Fischer, Attorney for Mike and Linda Cahill  
2208 Anacapa Street  
Santa Barbara, CA 93105  
805-563-6784 and [fischlaw@cox.net](mailto:fischlaw@cox.net)

Re: Proposed lot line adjustment; proposed and "as-built" construction  
at 860 Jimeno and 1402 Grand.

A failure of site planning.

The requirement to build a covered parking space as near as possible to the dwelling was intended to serve as a requirement of the approval of the lot-line adjustment approved by the Staff Hearing Officer in 2009. The current design submitted to the SHO and SFDB is a major change with significant adverse land use impacts for the site and the neighbor. It is contrary to logic for the City staff to initially support in 2009 a condition for one covered parking space, and thereafter to approve and to advocate with the applicants to change the requirement from a carport to an oversized two car pitched roof structure—the house has a flat roof—to be located approximately 100 feet from the house it is intended to serve. The new location and size cause significant adverse impacts to the adjacent property.

The condition to build a carport near the house became final in 2009. No appeal to the Planning Commission was filed by any of the Applicants. Basic urban planning and, likely, the first question in planning to add covered parking, is whether the location is suitable for use as a garage and will be in a location which will, using common sense, be actually used for parking. In this case, the new proposed location is too far from the house and when the change in elevation information is also considered, common sense points only to the conclusion that the building will not be used for automobile parking. It is contrary to sound community planning to allow a garage in a location which is not suitable for use as a garage. As we know, the use of the house for more than five years has been for a vacation rental home which is the equivalent to a hotel in a single family zone within the high fire zone. Approximately one year ago a court injunction against the owners of 1402 Grand was issued to stop the hotel from operating yet the property continues to have short term guests.

Logic and common sense make it clear the new building will only be used for storage of materials related to the vacation rental business conducted by the owners or as an additional party room for the vacation renters. The building ends up being an accessory building when the site already has accessory buildings which are used as part of the vacation rental. The site needs a carport for parking near the house, not an additional poorly positioned and designed two car garage too far away to be used as a two car garage.

The change in the condition of approval is contrary to law.

The condition for approval included a requirement for one covered parking space in a carport at a location near the house. It limited the size to one covered space and determined the location. The change repudiated the size and location of the required

covered parking space. The change was determined to be "substantial conformance" by staff after a hearing intended to be advisory to staff. That method of changing a condition of approval of a lot line adjustment was not consistent with due process, legal notice requirements and the requirement of the Subdivision Map Act and Title 27 of the Municipal Code. The advisory meeting before the SHO was not duly noticed in addition to being a sham. The change in the condition of approval of a lot line amendment must be processed with the same formality as the original approval and must be subject to appeal. None of that was done in 2010. There was no ten day notice, no adequate opportunity to appear and the approval by staff of the change in the conditions of approval is not authorized and is not in accord with Title 27 of the Municipal Code. Adding to the illegality, the SHO's resolution is unclear whether it was voicing agreement with staff or the conditions recommended by the Single Family Design Board prior to that sham meeting. The entire process by which the staff went out of its way to do favors to the applicants were not in accord with Titles 22, 27 and/or 28. Similar to the five year refusal to enforce the numerous violations, including the illegal vacation rental business, the staff went out of its way to support the Applicants without regard for the basic principles of good planning.

There are numerous additional reasons why the SHO should reject the staff recommendations proposed to be considered on July 27, 2011:

- The proposed new oversized building is shown with a pitched roof. During the hearing before the four members of the Single Family Design Board, when asked about the inconsistency between the roof of the new building and the flat roof of the house, the applicants' agent stated, as she has stated before, that the owner has considered changing the roof of the house in the future. That response does not change the fact that the roof lines are not consistent. Staff, not willing to burden the applicants with compliance with one of the most fundamental policies of the SFDB, did not pursue the question. The mere consideration of a possible future change to the roof line of the house is not a basis to find consistency. Such a comment is not even a promise. It is a diversion from the facts which the SFDB and staff should have rejected. The simple fact is that the pitched roof is not consistent with the architecture of the house on the site and any repetition of a discussion to consider making a change to the roof of the house does not solve the inconsistency.
- The staff report is devoid of facts related to the size of existing structures on the properties, the size and location of the proposed new structure, and any basis for its recommendations other than the staff does not want to inconvenience the applicants. In 2010, the SFDB comments and requests were summarily rejected by staff in favor of the same applicant who engaged in illegal use of the property for years, had removed a historic stone wall and has created parking spaces under the drip line of the Oaks. It is noted that the arborist hired by the Applicants has demonstrated his loyalty to the Applicants by attempting to justify that conduct which is contrary to the established standards to protect Oak trees.



- Despite the condition of approval which required the staff to verify the size of existing structures on the property **before** the return to SFDB, the results of the measurements which the staff planners claim were made, are not in the street file. It is noted that despite the fact a permit was issued to replace the exterior surface of the house with no change in square footage, the building and zoning staffs allowed the house to “grow” during the change in the exterior surface. Apparently due to inadequate inspections during construction by building and zoning staffs, it became significantly larger. Without the “growth” in the size of the house, the attractiveness of the site for vacation rental (hotel) use would be significantly less and the “need” for a storage building would be reduced. Needless to say, the proposed storage (accessory) structure adversely impacts the neighboring property and the use as a storage building or accessory building (party room) is not consistent with good community planning.
- It is well documented that City staff has retaliated against the neighbor for exercising the right to object to overdevelopment in the neighborhood. In the past, City staff strongly supported an attempt to put a 6000 square foot house at 1402 Grand and to allow a massive expansion on the steep hillside at 812 Largura. Both projects were rejected on appeal. Yet, a supervisor of design review put in writing his personal hatred of the efforts which were successful and has expressed his improper bias to others involved with review of the various projects and as-built construction. In retaliation, a supervisory building inspector signed off on the illegally expanded deck at 812 Largura. Another inspector had attempted to insert into the street file an “approval” document which was false. The Department finally admitted the misconduct but then retaliated against the persons making the disclosure. For example, a building inspector issued an improper stop work to block a routine driveway resurfacing project at the Cahill home. He went further and asked the public works staff to also issue improper notices of violation. When the licensed contractor and owner filed complaints regarding the conduct of the inspector, the stop work notice was withdrawn and final approval was quickly given at the site by the Building Official. It is not known what happened as a result of the complaint regarding unprofessional conduct apparently because the Human Relations department does not provide that information.
- The project designer for this project, despite claiming to park on Grand Avenue to avoid what she describes as parking, ingress and egress difficulties, actually parks her vehicle in the parking spaces created under the drip-line of the Oak. Contrary to the asserted difficulties, the house existed and adequately served as a single-family residence for 30 years before the current ownership. The often repeated story about how the property owner injured himself when he walked backwards over the edge of the driveway, although unfortunate, has no relevance to any land use issue other than the fact that access to the site makes it incompatible with the increased and different use caused by the vacation rental business. On a recent week-end, short term vacationers were

seen arriving at the property. The office of the City Attorney was alerted but it is not known what was done with the information.

- The staff has apparently decided to allow the arborist hired and working for the Applicants to make all decisions related to preservation of the Oak tree in the future. That is an improper delegation of responsibility for protection of the Oak. The arborist works for the owner, and is not responsive or responsible to the City but appears to be responsive to the requests of the owners.
- The SFDB, when it reviewed the project in 2010 insisted on a reduction in the building from 600 square feet to 400 square feet and strongly urged a minimum separation of nearly 20 feet between the back wall of the garage and the property line. There is no justification for the current larger size and the staff rejection of the recommendations of the SFDB regarding size of the structure and protection of the Oak.
- The SFDB membership has changed while this project has been pending. The four members present at the last meeting were directed by staff to improperly split the approval of one proposed project into two projects. Review of the landscaping ignored the parking under the Oak. Staff, for reasons it could not explain when asked, decided to split the project as if the lot-line adjustment somehow only impacted one of the two lots. It defies logic to split one project into two as if the land use issues and site planning concerns only involve one lot. An appeal of the SFDB votes has been filed which will require a full hearing at the City Council.
- The evidence that the applicants submitted a request for an extension of the expiration date of the lot-line adjustment in a timely manner is not adequate. Was a fee paid? When?

The SHO is requested to reject the recommendations of the staff and to deny the requests. In the event the SHO does not have access to all of the files and information regarding these matters, the SHO should continue the hearing to obtain the City files.

End.

**Tony Fischer**

---

**From:** "Jennings, Jennifer M" <jjennings@santabarbaraca.gov>  
**To:** <fischlaw@cox.net>  
**Cc:** "Riegle, Suzanne" <SRiegle@SantaBarbaraCA.gov>; "Cloonan, Michael J." <MCloonan@SantaBarbaraCA.gov>; "Wilde, Mark" <MWilde@SantaBarbaraCA.gov>  
**Sent:** Monday, August 08, 2011 7:47 AM  
**Subject:** RE: 1402 Grand/860 Jimeno LLA - PBW2009-01436  
 Mr. Fischer,

I apologize that I was unavailable to help you when you stopped by. I did not hear that you had inquired to speak to me.

Would you like to send me a list of times that would be convenient for you to stop by and look at the file?

Jennifer M. Jennings  
 Executive Assistant  
 City of Santa Barbara, Department of Public Works  
 (805) 897-2674

---

**From:** Tony Fischer [mailto:fischlaw@cox.net]  
**Sent:** Thursday, August 04, 2011 3:33 PM  
**To:** Johnson, Victoria  
**Cc:** Riegle, Suzanne; Wilde, Mark; Cloonan, Michael J.  
**Subject:** Re: 1402 Grand/860 Jimeno LLA - PBW2009-01436

Good **afternoon**. First, I was attempting to review the Planning file and the lot line adjustment file only to be told by Suzanne Riegle that the Planning staff has no information in its files regarding the lot line adjustment and does not keep any information it obtains from Public Works. Seems strange to have no information considering the representations made by Suzanne to the SHO last week regarding the project. Therefore I attempted to see the file by walking to the next counter (PW) and after waiting to speak with the person who should have access, I was informed by the receptionist that he could not be located within the building although she was sure he was in the building. Then I started this multiple person chain of emails which merely now gets me an opportunity to speak to someone about an appointment. I received this email while standing near the Public Works counter. I then spoke to the acting receptionist at your department who informed me that Ms. Jennings was in a meeting and therefore also unavailable to provide assistance in the simple task of making a public file available for inspection before your three day week-end. The receptionist promised to help. Is there any reason for this apparent endless chain of persons to contact to see a public file?

Tony Fischer, attorney

----- Original Message -----

**From:** "Johnson, Victoria" <VJohnson@SantaBarbaraCA.gov>  
**To:** "Tony Fischer" <fischlaw@cox.net>  
**Cc:** "Jennings, Jennifer M" <jjennings@santabarbaraca.gov>; "Riegle, Suzanne" <SRiegle@SantaBarbaraCA.gov>; "Wilde, Mark" <MWilde@SantaBarbaraCA.gov>

8/8/2011



Sent: Thursday, August 04, 2011 1:41 PM  
Subject: 1402 Grand/860 Jimeno LLA - PBW2009-01436

Good **morning** M. Fischer, I understand that you have already viewed the Planning file with Suzanne Riegle at the Zoning counter yesterday.

Please make an appointment with Jennifer Jennings, Executive Secretary to the Public Works Director to view the Engineering plan check file for the Lot Line Adjustment. Ms. Jennings phone number is 897-2674.

Ms. V. Johnson  
Project Engineer II

City of Santa Barbara  
Public Works Department  
[vjohnson@SantaBarbaraCA.gov](mailto:vjohnson@SantaBarbaraCA.gov)  
(805) 897-2563

-----Original Message-----

From: Tony Fischer [mailto:[fischlaw@cox.net](mailto:fischlaw@cox.net)]  
Sent: Thursday, August 04, 2011 8:35 AM  
To: Johnson, Victoria; Cloonan, Michael J.  
Subject: Fw: Automatic reply: Lot line adjustment

----- Original Message -----

From: "Wilde, Mark" <[MWilde@SantaBarbaraCA.gov](mailto:MWilde@SantaBarbaraCA.gov)>  
To: "Tony Fischer" <[fischlaw@cox.net](mailto:fischlaw@cox.net)>  
Sent: Thursday, August 04, 2011 8:29 AM  
Subject: Automatic reply: Lot line adjustment

I am on vacation July 29-Aug16th. Please contact Mike Cloonan for any urgent permit matters and please contact Victoria Johnson for projects in DART or for any final maps or documents issues. For more details, visit the City's website at: [www.SantaBarbaraCA.gov](http://www.SantaBarbaraCA.gov). If you have an emergency inspection need, please call Randy Ward at 564-5396.

Original Message -----

From: Tony Fischer  
To: [direland@santabarbaraca.gov](mailto:direland@santabarbaraca.gov)  
Sent: Thursday, August 04, 2011 8:04 AM  
Subject: Fw: Lot line adjustment

----- Original Message -----

From: Tony Fischer  
To: [mcloonan@santabarbaraca.gov](mailto:mcloonan@santabarbaraca.gov)  
Sent: Wednesday, August 03, 2011 1:57 PM  
Subject: Lot line adjustment

8/8/2011

Dear Mr. Cloonan,

I was at 630 Garden St. this morning and after waiting, they gave me your card. I am trying to see the files related to the lot line adjustment between 1402 Grand and 860 Jimeno. How can I see the file ASAP?

Tony Fischer, Attorney

563 6784 tel

[fischlaw@cox.net](mailto:fischlaw@cox.net)

8/8/2011

Santa Barbara Estate



Home > USA > California > Central Coast > Santa Barbara Area > Santa Barbara >

Private Homes > VRBO Listing #53182

## Santa Barbara 5 Acre Estate & Guest Hse:180 Degree Ocean Views

Private Homes, Santa Barbara, California Vacation Rental by Owner Listing 53182



LOCATION, LOCATION, LOCATION - Less than 2 miles to Beach, Walk to town

**Location:** Private Homes, Santa Barbara, Santa Barbara Area, Central Coast, California, USA (1 mile to Mission, downtown & Beach: Prestigious Riviera)

**Accommodations:** Private SB Estate & Guest Home, 5 Bedrooms, 5 Baths (Sleeps 5-12)

Be one of the few to experience this one of a kind 5 acre private Estate in the City of Santa Barbara with spectacular 360 degree ocean views and a secluded forest with California oaks!

This is the largest single parcel of land in the City limits of Santa Barbara. We are less than a mile to the Historic Old Mission and downtown Santa Barbara and also less than 2 miles to the Beach.

This is city living at its best as our Estate offers an impressive private 400 foot tree lined driveway that leads to the 5 bedroom Estate and Guest house. They both sit magnificently atop the lower Riviera with 360 degree views of the Ocean, Channel Islands, Santa Barbara Harbor & City Skyline, Montecito

### Call Owner

Phone 1: **(714) 394-5667**

**Todd (California, USA)**

Phone 2: **(805) 689-8994**

**Melanie (California, USA)**

*Please say "I saw your listing #53182 on VRBO". Before contacting us, please check our calendar for your desired dates.*

### Mountains and Ventura Coastline.

In addition to the view, the property is also home to native Southern California vegetation and wildlife such as deer, raccoons, rabbits, hawks, birds and numerous other animals who roam this truly unmatched Santa Barbara property. You can hike around our hilly, California Oak and tree filled private forest with over 1 mile of walking trails and stunning ocean views at nearly every vantage point.

The Estate itself will take your breath away upon entry as you will immediately see Ocean views from every angle, in this open floor plan, including 2 ten foot wide windows that extend from the floor to the ceiling. Every room is done with Italian stone, custom wooden beams & cabinetry and hand cast faux plaster walls which all add to the ambiance of this classic Santa Barbara estate.

In this open great room is the fully equipped state of the art kitchen that includes a Sub-Zero refrigerator, Wolf Stove, custom Santa Barbara cabinetry and Italian granite countertops. There is also an island that seats six and a separate area with a bar that make this kitchen a great gathering location.

Off the kitchen is a dining area with a Renaissance table that seats 10 in leather bullet and Italian tapestry chairs. Enjoy dining in front of spectacular ocean views and a cozy a Waterford fireplace.

In this great room is also a living room with a leather couch and leather chairs that provide beautiful views and is great for entertaining. Relax and enjoy the high definition LCD/TV, DVD, stereo and wireless internet access in the middle of these 5 untouched acres.

Off the great room are glass doors leading to 1 of the 7 ocean view decks. This deck offers spectacular views of the both the property and ocean, accompanied with wrought iron furnishings for your comfort.

Also off the great room are a half bath and the master suite.

The half bath offers an ocean view with custom cabinetry, Italian stone and hand painted Italian accents.

The large master suite, complete with ocean and mountain views, offers a king size bed and accompanying private bath. Every bedroom in the house has custom closets for ample storage and convenience. The full size bathroom is done in Italian stone and marble, custom cabinetry and glass. It is immaculately clean.

Downstairs offers 1 great room, 2 bedrooms and 1 ½ bathrooms. In the great room is a queen size four poster bed, comfortable couch,

game table and 42" Plasma TV/DVD and stereo. It is complimented with a Waterford fireplace and glass doors that lead to the 450 square foot deck. This deck has breath taking views of the Ocean, Channel Islands, coastline, City and the overall estate grounds. It offers wrought iron chaise lounges and table and chairs and is a wonderful place for entertaining, sunbathing or simply enjoying the Santa Barbara sunrise and sunsets.

The 3rd large bedroom has a king Tuscan bed that matches the wooden beams and stone floors providing the feeling of old world Santa Barbara architecture. It is so comforting that you may want to relax and read in the matching chaise or work at the desk that also provides ocean views. This bedroom has glass doors to its own private entrance leading outside to a small deck and its own half bath.

The 4th bedroom offers a double bed and is encased with windows and a glass door that leads to the large deck with spectacular ocean views.

Off the great room is a beautiful full bathroom with separate Jacuzzi tub and custom enclosed glass shower. In addition, it has custom marble, cabinetry, fixtures and a heated floor.

The outside grounds offer a beautiful courtyard made of Italian tile and travertine and is complimented with an Italian fountain. In the middle of the courtyard are 2 beautiful California oaks and 30 foot cactus which are 100+ years old. The courtyard leads to the guest house which offers a queen size French walnut antique bed, sitting area and full bathroom of Italian stone, custom glass and hand painted Avignon tiles. This private area has its own Waterford fireplace and private deck.

There are also numerous other areas around the property that offer decks, views and spectacular ambience for a picnic, with lemon and avocado trees sparsely out here and there. On top of the guest house is a large sun deck that has a gas grill, table and chairs and chaise lounges. This is the place to have great barbecues and enjoy the panoramic views of the estate.

This is a rare opportunity in the City of Santa Barbara, with untouched acreage the way Southern California used to be, in a beautiful brand new Estate and guest house.

Please be our guest and enjoy.

## Vacation Rental Features

<b>Activities</b>	Hiking, Rock Climbing, Biking, Golf, Tennis, Racquetball, Basketball, Fitness Center, Gym, Horseshoes, Miniature golf, Amusement Parks, Fishing, Wildlife Viewing, Horseback Riding, Shopping, Restaurants, Live Theater, Cinemas, Museums, Sightseeing, Swimming, Snorkeling/Diving, Boating, Sailing, Waterskiing, Surfing, Windsurfing, Parasailing, Shelling, Rafting
<b>Amenities</b>	<ul style="list-style-type: none"> <li>- Largest acreage of land within City of Santa Barbara with 5 acres - Over 1 mile walking trails</li> <li>- Incredible views of Ocean, Channel Islands, Santa Barbara Harbor &amp; City Skyline, Montecito Mountains and Ventura Coastline from nearly every room and deck - 3 Waterford fireplaces - 3 TV's including 42" plasma, 32" LCD high definition, DVD's and stereo - Wireless High Speed internet router - 7 Decks with abundant wrought iron furniture - State of the art kitchen with Sub-zero refrigerator and Wolf stove - Walking distance to the Mission and downtown - Immaculately clean bathrooms of limestone, custom glass, cabinets and fixtures - Less than 2 miles to the Beaches - Other: 2 sets of washer and dryers, Internet access, TV, Cable TV, Stereo, CD Player, Full Kitchen, Microwave, Dishwasher,, Cooking utensils provided, Linens provided, Gas Grill (BBQ), Italian stone throughout, custom cabinetry, wood beams, faux painted plaster, No Smoking</li> </ul>

## Rate Details (In US Dollars)

### Personal Currency Assistant™

#### Weekly rates:

Low season.... \$2,995 - \$3,695

High season...\$3,295 to \$4,795

#### Monthly rates:

Low Season \$8,500 to \$12,000; High Season .. \$12,000-\$18,000.

50% deposit required to secure reservation w/balance due 60 days prior to arrival

\$1,000 refundable security deposit.

\$395 Cleaning fee applies and 12% Tax on stays less than 30 days

Note: Until confirmed, rates are subject to change without notice.

**Dates available:** Available starting April 1, 2005  
Before contacting us, please check our calendar for your desired dates.

Phone 1: **(714) 394-5667 Todd (California, USA)** Phone 2: **(805) 689-8994 Melanie (California, USA)**

Note: Each property is individually owned or managed.

## Property Photos



*1 of 7 decks with unmatched ocean, city & mountain views on 5 private acres - Santa Barbara Estate Rental*



*Private courtyard between House & Guest House w/Italian Fountain, 1 of 7 Decks - Santa Barbara Estate Rental*



*State of the art kitchen w/Sub-Zero & Wolf stove and island that seats 6 - Santa Barbara Estate Rental*



*Over 400 foot tree lined private drive to the House & Guest House*





*Large bedrooms each with custom closet space, some with private decks*



*Stunning Ocean Views with open floor plan and Italian stone throughout*



*1 of 7 decks with unmatched ocean, city & mountain views on 5 private acres*



*5 bedrooms w/exquisite furnishings, each bed unique in wood & origin, wood beams*





*Stunning ocean views and within a mile to the beach*



*The American Riviera*



## Guest Comments (0)

This property does not yet have any comments in the guestbook.

Be the first to add a comment to this listing...

**Dates available:** Available starting April 1, 2005

Before contacting us, please check our calendar for your desired dates.

Phone 1: **(714) 394-5667 Todd (California, USA)** Phone 2: **(805) 689-8994 Melanie (California, USA)**

Note: Each property is individually owned or managed.

### Vacation Rentals by Owner Listing #53182

There have been 32863 visitors to this page since the counter was last reset in 2005.

This listing was first published here in 2005.

Date last modified - January 20, 2010

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**Tony Fischer**

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**From:** "Weiss, Bettie" <BWeiss@SantaBarbaraCA.gov>  
**To:** "Tony Fischer" <fischlaw@cox.net>; "Rodriguez, Cyndi" <CMRodriguez@SantaBarbaraCA.gov>; "Wiley, Stephen" <SWiley@SantaBarbaraCA.gov>; "Lopez, Marcelo A." <MLopez@SantaBarbaraCA.gov>; "Vincent, Scott" <SVincent@SantaBarbaraCA.gov>; "Riegler, Suzanne" <SRiegler@SantaBarbaraCA.gov>; "Community Development ABRsecretary" <abrsecretary@SantaBarbaraCA.gov>; "Community Development PC Secretary" <pcsecretary@SantaBarbaraCA.gov>

**Sent:** Monday, August 29, 2011 1:50 PM

**Subject:** RE: 1402 Grand and 860 Jimeno Rd processing

Hi Tony –

At first it did not occur to me to say to you that I would do an email to document what we talked about, but then a bit later I thought it would be an easy way to communicate to all the folks involved – so that's what I did. I think between the 2 of us we have covered the topics we spoke about.

1. However, I don't think I said and I do not mean to imply that you agreed the appeal of the July 5 SFDB action was not appropriate. In fact I state that we were "not able to reach a common understanding" with you on it. I think we are in agreement that if you file another appeal within the time allowed for the action once confirmed by the SFDB today – then matter of improvements to both 860 Jimeno and 1402 Grand will be brought to Council de novo.
2. Contact has been made with the applicants to explained the situation and our intent to have the whole project under appeal.
3. I understand that you don't agree with our position. However, as I stated in the prior email we have begun the process to refund the SHO appeal fee you paid based on what we believe is clear and correct advise from the City Attorney that the approval decision of the SHO on the time extension is not appealable.
4. & 5. No additional comments needed from me.

Thanks Tony – and feel free to call me if we need to discuss anything further.

Bettie

Bettie Weiss, City Planner

Community Development Dept.

City of Santa Barbara

(805) 564-5509

BWeiss@SantaBarbaraCA.gov

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**From:** Tony Fischer [mailto:fischlaw@cox.net]

**Sent:** Monday, August 29, 2011 1:23 PM

**To:** Weiss, Bettie; Rodriguez, Cyndi; Wiley, Stephen; Lopez, Marcelo A.; Vincent, Scott; Riegler, Suzanne; Community Development ABRsecretary; Community Development PC Secretary

**Subject:** 1402 Grand and 860 Jimeno Rd processing

To: Bettie Weiss, City Planner, City of Santa Barbara

8/29/2011

From: Tony Fischer, Attorney for Mike and Linda Cahill  
 Re: 1402 Grand and 860 Jimeno Road lot line adjustments.

This memorandum is in reference to your email dated August 25, 2011. It is copied at the end of this memorandum.

First, the apology for the mix-up in handling of the appeal is acknowledged and accepted.

Second, your email confirmation on August 25, 2011 at 1:45 PM of the conversation earlier that day is not complete:

1. At no time did I agree that the appeal filed with the city clerk regarding the July 5, 2011 votes of the SFDB was not appropriate and/or timely and it was my statement that once the appeal was filed with ten days of that hearing, the prior action of the SFDB was set aside pending the de novo hearing at the City Council. In my view, the SFDB consent calendar was operating with erroneous and incomplete information when it attempted to review the project on August 22, 2011. Because of the valid appeal, there was no longer a direction from the Full Board to the Board Member hearing the consent agenda.
2. I asked whether you had knowledge that the Applicants agreed with the City's position regarding your proposed handling of these matters. You stated that the City would deal with the Applicants to carry out the City's position that all of the matters related to the SFDB actions are open for review on appeal.
3. I reminded you, after you stated no appeal was filed regarding the SHO action on July 27, that an appeal had been filed. You then acknowledged that a timely appeal had been filed and stated that it is the position of the City that the granting of the extension of the approval of the lot line adjustment could not be appealed by any party. The only appeal would be of a denial of an extension and that would have to be filed by the applicant. You further stated that the City's position is that the vote of the SHO on July 27, 2011 did not change any of the conditions of approval from the earlier SHO approval in 2009. Further, it is the City's position that staff, not SHO, made a substantial conformance determination regarding the changes to the location of the parking structure, the substitution of a 27 foot long garage for a single car carport and the change in protections for the Oaks. Further, you stated that the staff determination could never have been appealed. I expressed disagreement with the City's positions regarding the validity of the staff's action and the refusal to allow review of changes to a lot line adjustment.
4. We did not discuss whether the conversation would be memorialized in a confirmation memorandum. I would have preferred the circulation of a draft in order to make sure that the memorandum to be distributed to the Office of the City Clerk, the Office of the City Attorney, the City Administrator and others, would be complete.
5. During our conversation you did mention that you had discussed, prior to our call, these matters with Scott Vincent of the Office of the City Attorney; Paul Casey, Community Development Director/Assistant City Administrator; and persons in your office.

Original Message —

From: Weiss, Bettie

8/29/2011

**To:** [Rodriguez, Cyndi](#) ; [Tony Fischer](#)

**Cc:** [Wiley, Stephen](#) ; [Lopez, Marcelo A](#) ; [Casey, Paul](#) ; [Tschech, Susan](#) ; [Vincent, Scott](#) ; [Riegler, Suzanne](#)

**Sent:** Thursday, August 25, 2011 1:45 PM

**Subject:** RE: Request for Records

Hello – I am writing to document the conversation I've had today with both of you - Tony Fischer and Cyndi Rodriguez (and I am copying everyone for ease of communication). The purpose for my communication today is to clarify the City's position with respect to Master Application 2008-00402 for improvements at 860 Jimeno Road & 1402 Grand Ave.

The City Clerk's office received an appeal letter for an action of the Single Family Design Board (SFDB) taken on July 5, 2011. Planning Staff advised the Clerks of our opinion that appeal was premature because the action taken on July 5<sup>th</sup> pertained to the 860 Jimeno property and we understand the issues in the appeal letter to be addressing the improvements proposed for 1402 Grand.

We expected that the Clerk's office would hold the appeal until such time as the other actions are taken by the SFDB. Planning staff was not able to reach a common understanding with the appellant and the Clerk understood our concern to be such that appeal was invalid and felt that it was inappropriate to hold. Therefore, the appeal was returned.

On Monday 8/22 the SFDB took an action to approved the remainder of this application. This Consent action will be presented to the SFDB on 8/29 to be ratified, and that will begin a 10 day appeal period ending 9/8. We anticipate that Mr. Fischer or his client will file an appeal within that time period. I informed him that we will consider all his points regarding the SFDB action (design review) for both properties to be legitimately brought forward to Council, and not disregard the points raised in the prior appeal that was returned.

On a separate but related note, I also informed Mr. Fischer that there is no appeal allowed for the approval of a time extension for Line Adjustment by the Staff Hearing Officer. We in the Planning Division did receive an appeal letter and \$220 fee, and we are in the process of refunding that fee.

I apologize for the confusion and take responsibility for City staff communications on this matter.

Thank you all for your support and understanding.

8/29/2011

KATHLEEN M. WEINHEIMER

ATTORNEY AT LAW

420 ALAMEDA PADRE SERRA

SANTA BARBARA, CALIFORNIA 93103

TELEPHONE (805) 965-2777

FAX (805) 965-6388

EMAIL: kathleenweinheimer@cox.net

September 26, 2011

Mayor Helene Schneider and Members  
of the City Council  
City of Santa Barbara  
City Hall  
Santa Barbara, California 93101

Re: Cahill Appeal of SFDB Decisions Regarding 1402 Grand Avenue

Dear Madame Mayor and Members of the City Council:

I represent Melanie Cava and Todd Drevo, owners and residents of 1402 Grand Avenue, a 5.2 acre property on the lower Riviera. For the past several years, Ms. Cava and Mr. Drevo have been attempting to complete a lot line adjustment with their neighbors, Mr. and Mrs. Joseph Yob, owners of the home at 860 Jimeno Road. Ms. Cava and Mr. Drevo at one time owned the Jimeno Road property, and as a condition of sale of that property to the Yobs, negotiated a transfer of 3,140 square feet of the Jimeno Road property to the Grand Avenue site to facilitate parking and emergency access. Neither party to the sale could have anticipated the extent of opposition which would be raised to this simple request.

Background

The original request for a lot line adjustment between the Yob and Cava/Drevo properties was approved by the Staff Hearing Officer (SHO) on June 3, 2009. Among the conditions of approval were several requirements addressing the preservation of a large oak tree near the newly adjusted property line, as well as a requirement that covered parking on the Grand Avenue site be provided. On June 30, 2010, Ms. Cava and Mr. Drevo sought, and received, approval for certain minor changes to the conditions of approval, which addressed the method of restricting parking under the oak tree and substituted a two car garage for the previously approved carport. Because of unexpected delays in obtaining lender approval for the lot line adjustment, Ms. Cava and Mr. Drevo found it necessary to apply for, and receive, a three year time extension of the lot line adjustment approval. This time extension was granted by the SHO on July 27, 2011. Subsequent thereto, Ms. Cava and Mr. Drevo obtained the required design approval for the garage and landscaping, and recorded the lot line adjustment on August 16, 2011.

### The Appeal

Over the last several months, Tony Fischer, attorney for Mike and Linda Cahill, has filed a series of appeals, challenging everything from the staff's 2010 acceptance of a respected arborist's recommendations because the arborist was paid by the applicant, to assertions that the approved garage is not in keeping with the surrounding area. He alleges that Ms. Cava and Mr. Drevo are operating an illegal vacation rental (an issue which was resolved to the City's satisfaction several years ago), as well as claims that the staff is bias against his clients. What is lacking in Mr. Fischer's appeal, however, are any facts relevant to the decisions made by the Single Family Design Board, the only issue properly on appeal.

Apparently, Mr. and Mrs. Cahill object to the size, location, and design of the garage approved for the Grand Avenue site. Because the garage is 7 feet longer than the minimum 20 foot dimension and not located immediately adjacent to the house, the appellants assert that this is proof that the garage will not be used for parking. The appellants disregard the significant site constraints which dictate the location of the garage (and which were appreciated by the SFDB in granting their approval of the location), and instead allege that because the garage plan allows for a modest amount of storage, it will be a "party room for the vacation rentals." Further, they assert that a 562 square foot garage is somehow out of character with other properties in the neighborhood (none of which begin to approach 5.2 acres in size). Finally, they appear to object to the pitched roof design. At no time do the appellants identify any ordinance violations relating to the SFDB approval, offer any examples of the alleged inconsistencies with City policies or with similarly situated properties, or provide any quantifiable basis for their objections. They simply don't like the garage and want the approval overturned.

While the Cahills are certainly entitled to their opinion, the fact that they dislike their neighbors' proposal, one which meets all setback, height, and design requirements, does not form a valid basis for overturning the actions of the SFDB.

### The Factual Setting

The Cava/Drevo property is accessed by a long, narrow, dangerous driveway extending from the end of Grand Avenue some 689 feet to the residence. Because of the manner in which the properties were originally divided and developed many years ago, there was little room on the Grand Avenue site for parking and drivers were forced to back down this long and perilous driveway. To address these concerns, the Yobs and the Cava/Drevo's agreed to transfer approximately 3,140 square feet from the Yob property to the Grand Avenue parcel and filed an application for a lot line adjustment in August of 2008. Various designs were proposed, all with the goal of increasing parking and access



to the site. Careful consideration was given to the preservation of an existing large oak tree on the Yob property, with the imposition of conditions requiring annual monitoring of the health of the tree, preventing parking near the tree, and limiting landscaping near the tree roots. Similar care was taken with designing the parking and maneuvering areas to assure safe ingress and egress without adversely impacting the tree. The SHO approved this request in 2009, including the conditions protecting the oak tree and limiting the parking areas onsite. The 2009 approval also contained a requirement that covered parking be provided in a carport. The 2009 decision was not appealed.

As is often the case, when the applicants began refining their design in anticipation of recording the lot line adjustment and obtaining the necessary building permits, they decided that a garage was much more in keeping with a property of this caliber, and they sought approval from the City to substitute a garage for the previously approved carport. As part of this substitution, the location of the covered parking was relocated slightly, which necessitated minor changes to the back-up/turn around area under the oak tree (for example, a change from a rock border to a curb). The SHO found these proposed alterations in substantial conformity to the original approval and granted the requested change. The 2010 decision was not appealed.

As mentioned previously, the parties to the lot line adjustment were delayed in obtaining the required approvals from their lenders in order to complete the lot line adjustment by the 2011 deadline. In order to preserve their approval, the applicants filed for, and received a time extension, something which is regularly granted if the applicants have shown progress on their project. We have been advised by staff that time extensions are not appealable.

Within a month of the receipt of the time extension from the SHO, the applicants completed the design review process with the SFDB and recorded the lot line adjustment. The Cahills are now appealing the action taken by the SFDB. Although the appeal includes a variety of unrelated issues, including objections to the time extension process, complaints about the attitude of staff, and false allegations about the actions of the applicants, these assertions are not properly before the Council and should not be considered as part of this appeal. The matter before the Council is simply whether or not the decisions of the SFDB regarding the garage should be upheld.

#### The SFDB

The SFDB is charged with determining whether a given application meets the City's design criteria, is compatible with the surrounding neighborhood in size and design, and



is in keeping with the Neighborhood Preservation Ordinance, the Single Family Design Guidelines, and other relevant guidelines applicable to construction in this zone. A careful review of the record shows that the Planning staff, the SHO, and the SFDB spent a great deal of time assuring that the project would meet the requirements of the Neighborhood Preservation Ordinance through the imposition of conditions addressing the height of vegetation, the location of parking and turn around areas, and the overall design of the garage. As stated in the minutes of the SFDB action, the findings required by Santa Barbara Municipal Code Section 22.69.050 have all been made for this project.

More significantly, however, is the fact that there is nothing in the various appeal letters and accompanying documents which provides a justifiable basis to challenge the SFDB's 5-0 decision approving this project. Nowhere does the appellant state which ordinance provision has been violated, which finding is lacking, or what design criteria has been overlooked. Rather, the appeal is fraught with unfounded allegations impugning the integrity of staff, the applicants, and the process. Rather than working with the applicants to obtain the most acceptable proposal possible, Mr. Cahill has chosen to spend his time accosting Ms. Cava's and Mr. Drevo's visitors, asking them how much they are paying to visit the property, falsely accusing staff of bias, and raising absurd objections to the minutes of various City proceedings (such as the allegation that SFDB minutes are erroneous because they fail to list every staff member in the room). An inordinate amount of time has been wasted on complaints about the adequacy of the notice (the SFDB agenda mistakenly included reference to the earlier SHO actions; however, since Mr. Cahill and his attorney have been present at each and every hearing, clearly the notice was legally effective), the lack of detail in the minutes, the fact that consent calendar items are not televised, and other procedural objections which are irrelevant to this decision, as the appellants have been afforded every opportunity to participate throughout. It is indeed unfortunate that an appellant is afforded a government forum to rail against both staff and the applicant without respect for truth or integrity. Staff, the SHO, and the SFDB have done nothing to deserve the vitriol aimed at them throughout this process. They have conducted themselves professionally and without bias to either party. The simple fact that the appellants disagree with the decision is not evidence of error.

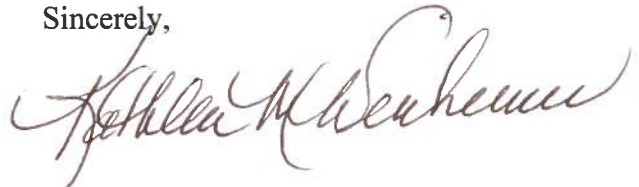
### Conclusion

The last two sentences of Mr. Fischer's letter of September 8, 2011 summarize the only real issues in this appeal: Mr. Cahill wants the garage relocated or the carport condition reinstated. The appeal offers no basis for either request. Clearly, an enclosed parking garage of 562 square feet, which includes a modest amount of space for storage of gardening equipment, garbage containers, and the like, is preferable to an open carport.

Mayor Helene Schneider and Members  
of the City Council  
September 26, 2011  
Page five

One would think this is particularly true for a neighbor who can view the site from his home. More importantly, the applicants received approval to substitute the garage for the carport more than 15 months ago, and have spent considerable time and money in reliance on that approval. The SFDB members have applied their expertise as design professionals to review and approve the project, believing it to be an appropriate improvement, especially given the size of the residence (2,400 square feet) and the parcel (5.2 acres). Careful consideration has been paid to the legitimate concerns raised throughout the review process and appropriate conditions protecting the oak tree and the adjacent environment have been imposed and upheld. As such, on behalf of Ms. Cava and Mr. Drevo, who have been living with this exhausting and expensive process for more than three years, I respectfully request that you deny this appeal and uphold the decision of the SFDB. Thank you very much.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Kathleen M. Weinheimer', written in a cursive style.

Kathleen M. Weinheimer

## SHEET INDEX

- A1. DIRECTORY AND SITE  
A2. 1402 GRAND AVE  
A3. 860 JIMENO RD.

## PROJECT INFORMATION

**1.81-LINE ABANDONMENT BY TWENTY-ONE TWO TWO AND 1-402 GRAND THE RELATED STATISTICS ON ONE TWO TWO PROPERTY. REPLACE EXISTING SIGNAGE WITH "WELCOME TO THE HIGH COUNTRY" AND INSTALL NEW "WELCOME AND 1-402 WELL" SIGNAGE.**

**GRAND THE PROPERTY. IN TWO EXISTING CHANGING CARS AND PHILIPS. REPLACE WITH NEW CARS, PHILIPS AND LIGHTS. AND RAILING TO TOP OF THE HILL. ROAD MARK. IN SUCH THE NEW ALAN ROAD. WALLS AND LANDSCAPING. CONSIDER A NEW 543 507 7-08 GARAGE.**

**NEW FISH AND GATE AT CORDON. PROPERTY LINE. APPROX. 100' NORTH.**

[illegible]

## SITE PLAN

SCALE: 1/64" = 1'-0"



## PROJECT CONTACTS

[illegible]

## AERIAL MAP



## INTENT AND PRACTICES

© 2004 Blackwell Publishing Ltd

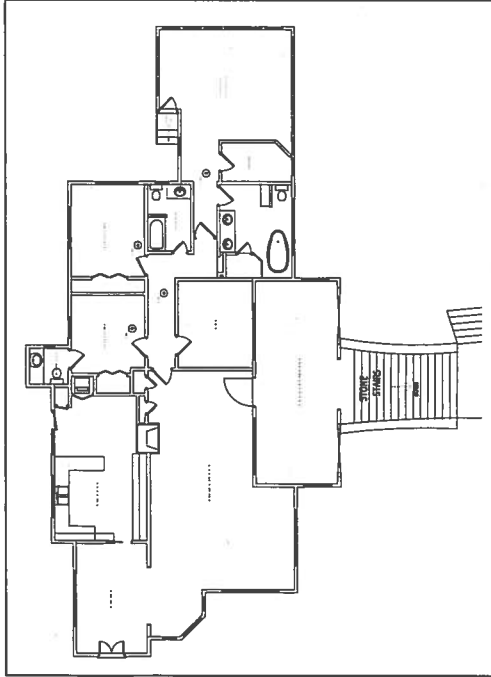
Downloaded from <http://ajph.org/> on July 10, 2015

## PROJECTS WITH ZONING MODIFICATIONS

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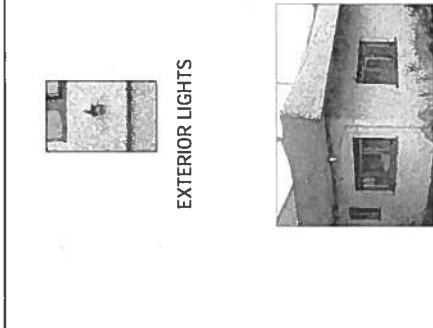
100% **RECYCLED**

- [illegible]

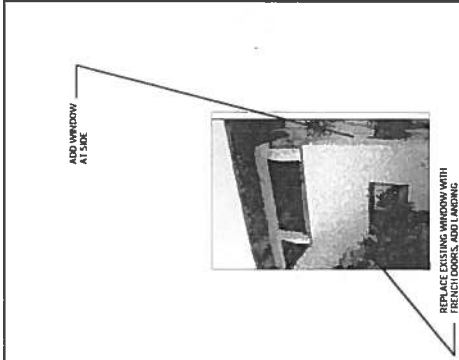


MAIN FLOOR PLAN - JIMENO REFERENCE

SCALE: 1/8" = 1'-0"



EXTERIOR LIGHTS



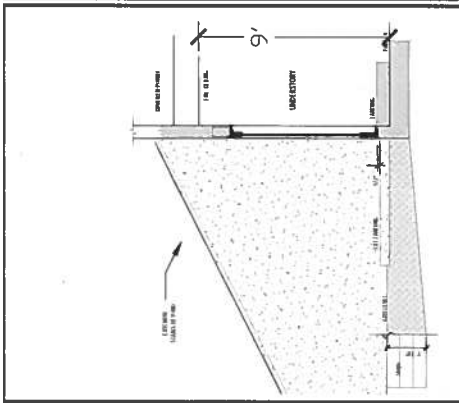
AUD WINDOW AT SIDE

TYP. WINDOW SILL DETAIL

UNDERSTORY - EXTERIOR

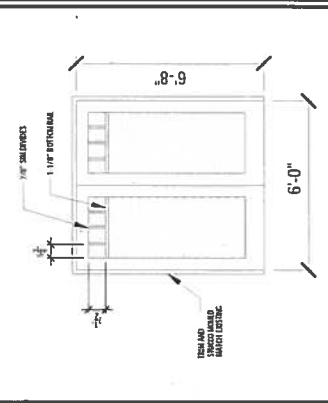
UNDERSTORY - Door Section

SCALE: 3/8" = 1'-0"



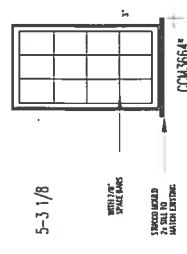
860 JIMENO RESIDENCE

**RICHELE DESIGN**  
DESIGN • INTERIORS • PLANNING • FLOW ENGINEERING  
PHONE: (805) 568-1303 EMAIL: richiele@richiele.com  
1129 STATE ST., SUITE 21, SANTA BARBARA, CA 93101



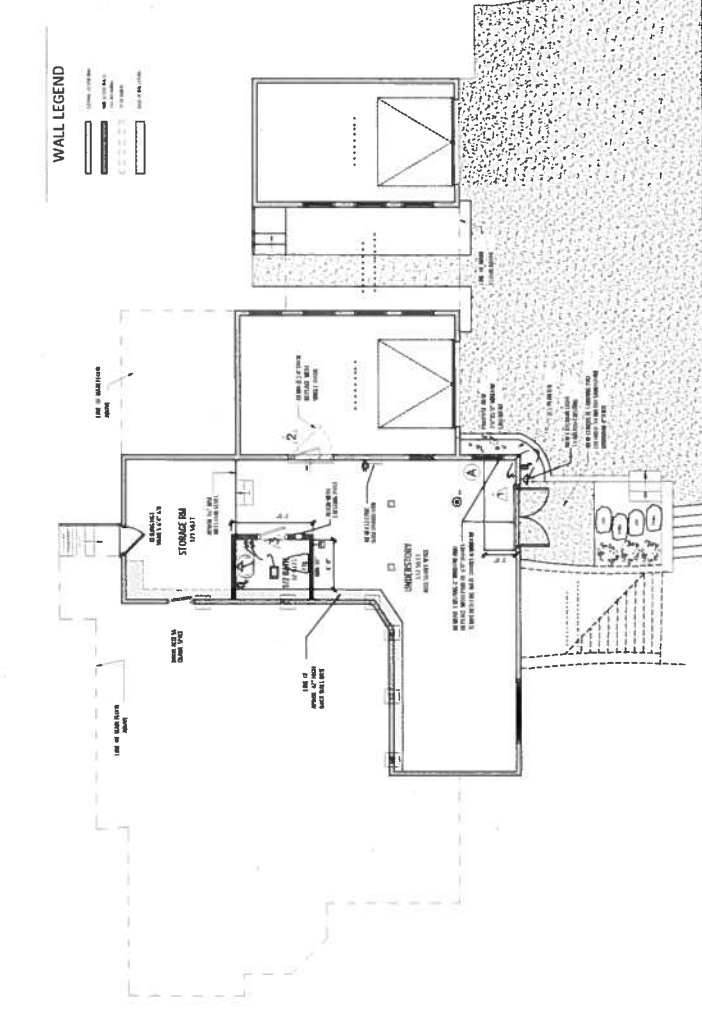
FRENCH DOOR ELEVATION

CASEMENT WINDOW  
Masonry Opening  
3'-0 1/2 (927)  
Rough Opening  
3'-1 (940)



DOOR SCHEDULE				STYLE
MARK	SIZE	TYPE	TYPE	STYLE
1	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H
2	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H
3	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H
4	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H
5	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H
6	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H
7	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H
8	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H
9	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H
10	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H

WINDOW SCHEDULE				NOTES
MARK	SIZE	TYPE	TYPE	NOTES
1	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H
2	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H
3	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H
4	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H
5	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H
6	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H
7	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H
8	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H
9	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H
10	6'-0" WIDE	6'-0" H	6'-0" H	6'-0" H

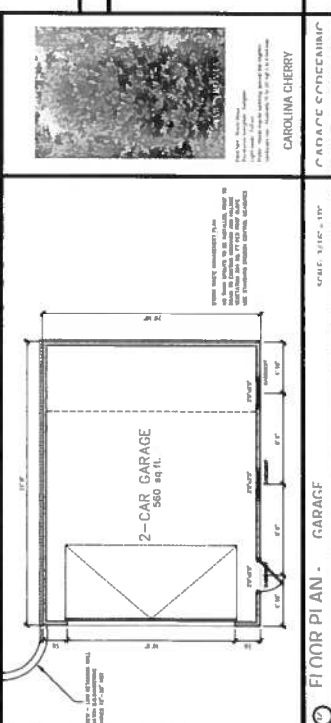
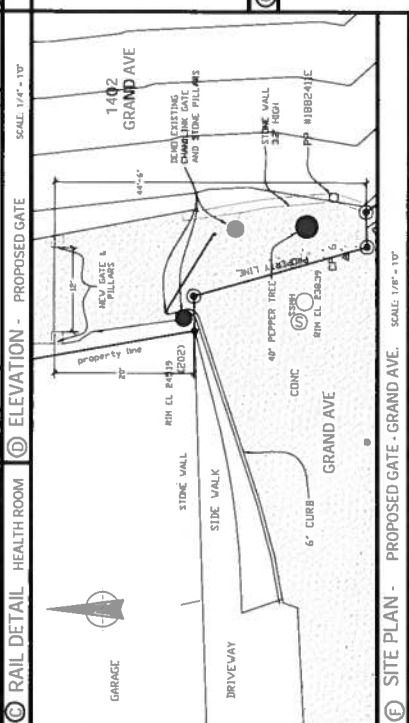
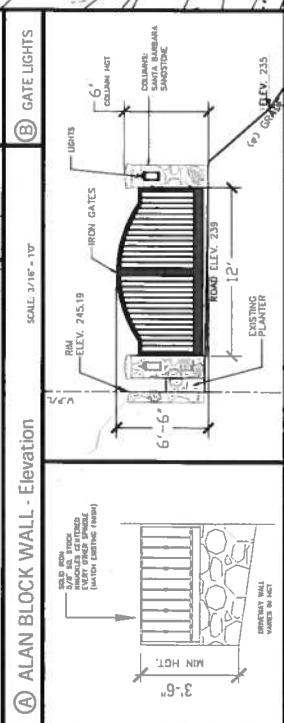
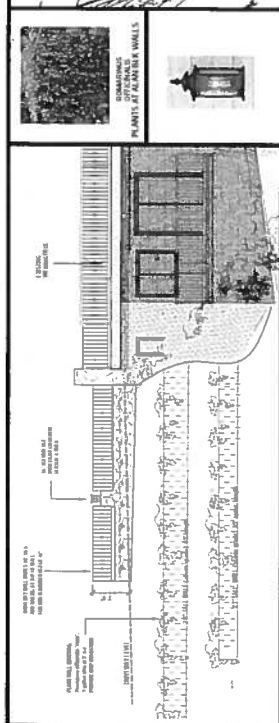
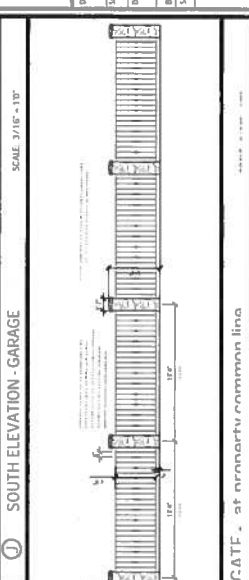
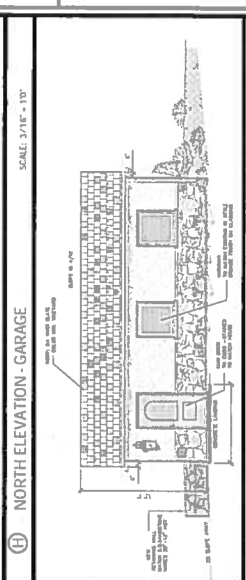
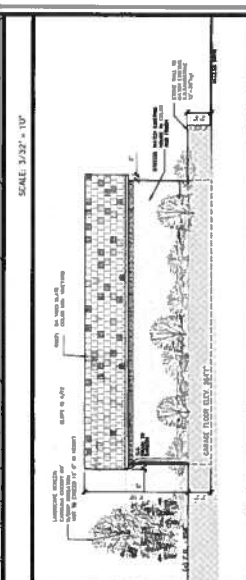
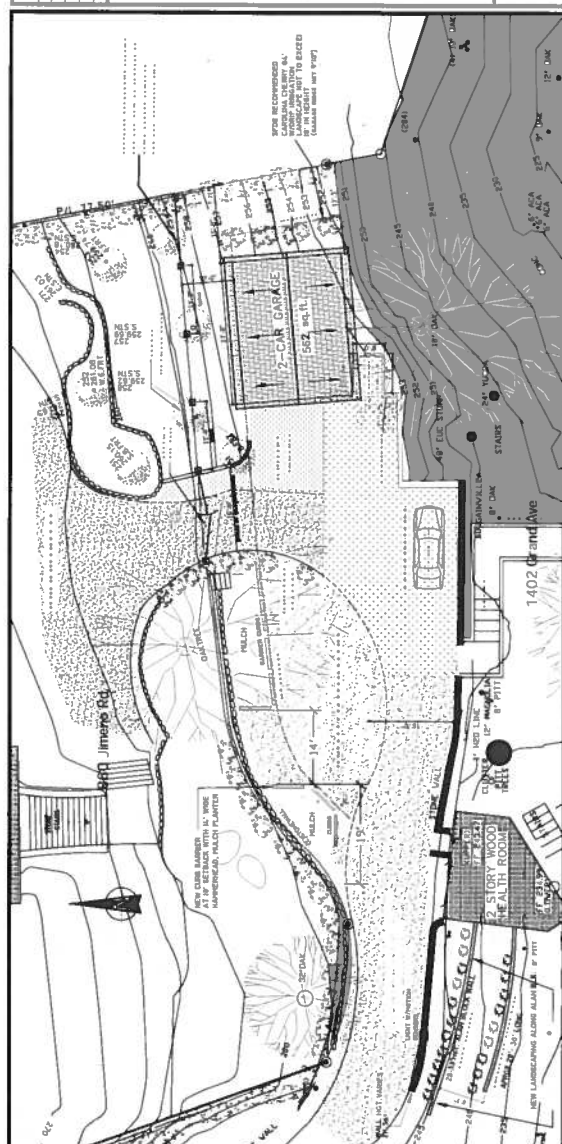


WALL LEGEND

WINDOW SCHEDULE

YOB RESIDENCE

DATE: 8/12/11  
SCALE: 1/8" = 1'-0"





## DESIGN REVIEW ACTIVITIES SUMMARY

**860 JIMENO RD (MST2008-00402)****R-LLA**

*This project has been revised to add a 562 square foot detached two-car garage for 1402 Grand Avenue and the proposed total of 3,401 square feet on the 5.2 acre lot is 47% of the maximum floor-to-lot area ratio guideline. Proposal for a lot-line adjustment to decrease 860 Jimeno Road and increase 1402 Grand Avenue by 3,140 square feet. Resulting lot sizes would be 22,598 and 226,973 square feet (5.2 acres) respectively. The lots are located in the Hillside Design District. The project includes a new entry gate and "as-built" changes to the stone walls along the driveway at 1402 Grand Avenue. The project also includes alterations to the residence at 860 Jimeno Road consisting of replacement of an existing window with new French door, adding a new window, and converting the existing permitted understory to habitable space. Staff has determined that the changes to the project are in substantial conformance with Conditions of Approval contained in Staff Hearing Officer Resolution No. 046-09.*

**Status:** *Design Review Approved/PC Approved, No Design Review Required*

**DISP**

**Date 3**

**SFDB-Concept Review (New) - PH**

**CONT**

**02/17/09**

(Comments only; project requires environmental review and Staff Hearing Officer approval of a lot line adjustment.)

Actual time: 4:25

Present: Richele Mailand, Agent.

Public comment opened at 4:47 p.m.

1. Tony Fischer, Attorney for Mike and Linda Cahill: requested renotification due to errors; concerned that the lot line adjustment will provide increased parking, and that the ABR's comments for verification of proper engineering and construction of Allan Block walls were not adhered. Mr. Fischer inquired whether the Board had received his comment letter submitted via e-mail.
2. Jill Kent, neighbor: concerned about glare from entry gate lights.

Public comment closed at 4:57 p.m.

Mr. Limon explained that during construction it was determined that the walls had been shortened by removing several stone courses, and no calculations were required because of the reduction. The ABR had expected the project to return for a final review; therefore, the item is referred to the SFDB for review. Initially the improvements were felt to be minor in nature and the project was scheduled for review on Consent Calendar, however due to as-built violations the application was withdrawn. Staff has not concluded support of the lot line adjustment.

Motion: Continued indefinitely to the Full Board with the following comments:

- 1) Project will be renoticed for the next meeting. Applicant to review notice for description accuracy.
  - 2) Add substantial landscaping to screen the Allan block wall. The Board did not comment on the durability or safety of the existing wall.
  - 3) Provide additional drawings of the understory at 860 Jimeno Road, show the patio door in relation to the exterior grade.
  - 4) The proposed window at lower level of 860 Jimeno Road is to match the house.
  - 5) Applicant to study adding a landscape island to the turnaround to prevent parking of additional vehicles. Graded area will only be utilized for maneuvering of vehicles.
  - 6) Provide additional information of material for turn around area and drainage information due to grading on property.
  - 7) All as-built and proposed lighting shall be down cast to prevent night glare to neighbors. Provide cut sheets for all proposed lighting.
  - 8) Existing driveway wall to have a 42 inch guardrail in keeping with the historic nature of stone walls, wrought iron is suggested.
- Action: Carroll/Bernstein, 6/0/0. Motion carried. (Mahan absent.)



(Comments only; project requires environmental review and Staff Hearing Officer approval of a lot line adjustment.)

Actual time: 4:25

Present: Richele Mailand, Agent.

Public comment opened at 4:47 p.m.

1. Tony Fischer, Attorney for Mike and Linda Cahill: requested renotification due to errors; concerned that the lot line adjustment will provide increased parking, and that the ABR's comments for verification of proper engineering and construction of Allan Block walls were not adhered. Mr. Fischer inquired whether the Board had received his comment letter submitted via e-mail.
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- 7) All as-built and proposed lighting shall be down cast to prevent night glare to neighbors. Provide cut sheets for all proposed lighting.
- 8) Existing driveway wall to have a 42 inch guardrail in keeping with the historic nature of stone walls, wrought iron is suggested.

Action: Carroll/Bernstein, 6/0/0. Motion carried. (Mohan absent)

**SFDB-Concept Review (Cont.)**

**CONT**

**03/02/09**

(Comments only; project requires environmental review and Staff Hearing Officer approval of a lot line adjustment.)

Actual time: 4:11

Present: Richele Mailand, Agent; Todd Drevo, Owner.

Public comment opened at 4:22 p.m.

1. Tony Fischer, Attorney for Mike and Linda Cahill, opposed: drawings were not available to the public last week; as-built grading should be reviewed by Staff and the Board; in 2007 the old stone wall and vegetation were removed resulting in an enforcement case, a large parking lot now exists; as-built grading would not have been approved if proposed prior to completion; the Allan block wall was not engineered and the permit expired; comments on lot line adjustment should look at project as blank slate.

2. N. Lichtenstein, opposed: concerned about the possibility of cars idling at the driveway gate.

Public comment closed at 4:32 p.m.

Motion: Continued indefinitely to Full Board with the following comments:

- 1) Show an accurate tree drip line
- 2) Show irrigation for the Rosemary shrubs.
- 3) Submit a design to Transportation Planning that provides a hammer head turnaround minimizing impact to the tree drip line and provide landscaping in the area not required for the turn around.
- 4) Study the light fixtures at the gate.
- 5) Obtain comments from Transportation Planning for the gate location.
- 6) Provide additional wrought iron railing details.
- 7) Provide window details for 860 Jimeno.
- 8) Staff to verify the appropriate setback for the gate.

Action: Woolery/Carroll, 7/0/0. Motion carried.

**SFDB-Concept Review (Cont.)****CONT****03/16/09**

(Third Concept Review. Comments only; project requires environmental review and Staff Hearing Officer approval of a lot line adjustment.)

Actual time: 3:51

Present: Richele Mailand, Agent; Todd Drevo, Owner; and Suzanne Johnston, Associate Planner.

Public comment opened at 3:58 p.m.

Tony Fischer, Attorney for Mike and Linda Cahill, opposed: lot line adjustment gives area from the small lot to the large lot; the proposed turnaround area at 17 feet is wide enough to park two cars; concerned that the Board does not have construction drawings for the Allan Block wall.

A letter in opposition from Paula Westbury was acknowledged.

Public comment closed at 4:03 p.m.

Suzanne Johnston, Assistant Planner, clarified that originally a permit was needed; however, upon conducting a site investigation, Jim Buster, former ?? determined that if one course of Allan block was removed the building permit would no longer be required.

Motion: Continued to the Staff Hearing Officer and continued indefinitely to Full Board with the following comments:

- 1) The lot line adjustment is supportable as presented.
- 2) The hammerhead driveway turnaround is approved as noted on plans to be no wider than 14 feet.
- 3) Remove the decomposed granite under the Oak tree by hand and replace with bark and several large boulders. An arborist is to approve the bark and boulder proposal.
- 4) Plant a small tree in the small triangular planter.
- 5) The Allan block wall is acceptable as noted on the plans; it is understood that the wall will be reviewed by the Building and Safety Division.
- 6) Windows are approved as noted on the plans.
- 7) Show irrigation to the Rosemary shrubs.
- 8) Indicate that the health room exterior lighting uses a motion detector.
- 9) Comments 4 and 8 were carried forward from the minutes of March 2, 2009: 4. Staff to verify the appropriate setback for the gate. 8. Study the light fixtures at the gate.

Action: Carroll/Woolery, 7/0/0. Motion carried.

**SFDB-Concept Review (Cont.)****CONT****05/10/10**

(Comments only; project requires Staff Hearing Officer determination of substantial conformance.)

Actual time: 3:46

Present: Richele Mailand, Agent; Kathleen Weinheimer, Attorney.

Suzanne Riegle, Assistant Planner explained that project revisions must return to the Staff Hearing Officer to review for substantial compliance with conditions of approval in Resolution 046-09. Staff supports the two car garage but does not support any increase in driveway turnaround area.

Public comment was opened at 3:57 p.m.

Eileen Boris: concerned about maneuverability on site and guest parking on Grand Avenue; light and noise pollution at new gate.

Tony Fischer: opposed to noncompliance with Staff Hearing Officer Conditions of Approval; concerned about possible future rental of the proposed garage; opposed to pitched roof style of garage (submitted written documents).

Mike Cahill: neighbor, opposed to view encroachment of proposed garage.

Joe Yob: neighbor at 860 Jimeno, favors appearance of a garage over a carport.

An e-mail from Jill Kent expressing concerns was acknowledged.

A letter in opposition from Paula Westbury was acknowledged.

Public comment was closed at 4:09 p.m.

Straw vote: is the architectural style of the proposed garage acceptable? 4/3/0

Motion: Continued indefinitely to the Staff Hearing Officer with the following comments:

- 1) Reduce the garage length to 20'8" inches, keeping the rear wall at a distance of 19'10" from the property line to move the garage toward the East further away from the Oak tree.
- 2) The garage architecture is generally acceptable to a majority of the board.
- 3) Comments 1, 2, 3, 4 and 7 from the meeting of 3/16/2009 were carried forward: 1. The lot line adjustment is supportable as presented. 2. The hammerhead driveway turnaround is approved as noted on plans to be no wider than 14 feet. 3. Remove the decomposed granite under the Oak tree by hand and replace with bark and several large boulders. An arborist is to approve the bark and boulder proposal. 4. Plant a small tree in the small triangular planter. 7. Show irrigation to the Rosemary shrubs.
- 4) Eliminate the landscape planter along the stone wall.
- 5) An arborist is to study the proposed garage location in relation to the downhill Oak tree root structure and provide protection measures.

Action: Mahan/Woolery, 7/0/0. Motion carried.

**SFDB-Concept Review (Cont.)****APVD****07/05/11**

(Comments only; a Staff Hearing Officer hearing is scheduled for July 13, 2011, for a requested time extension for the lot-line adjustment (Resolution No. 046-09).

(3:21)

Present: Richele Mailand, Agent.

Suzanne Riegle, Assistant Planner, clarified for the Board transportation requirements and minor project changes.

Public comment opened at 3:34 p.m.

Patrick Corrigan, addressed concerns regarding the integrity of the 2.5 foot retaining wall separating the site from his neighboring property.

Linda Cahill, opposed: addressed concerns regarding the zoning and history of use of the site; proposed garage proximity to Ms. Cahill's property and potential obstruction of views.

Public comment closed at 3:43 p.m.

Motion 1: Project Design Approval and Final Approval for the portion of the project at 860 Jimeno Road, with the finding that the Neighborhood Preservation Ordinance criteria have been met as stated in Subsection 22.69.050 of the City of Santa Barbara Municipal Code with window changes contingent upon the Staff Hearing Officer time extension approval.

- 1) Findings for quality materials and neighborhood compatibility were made.

Action: Woolery/Zimmerman, 4/0/0. Motion carried. (Bernstein/Sweeney absent).

Motion 2: Continued indefinitely to the Staff Hearing Officer and return to Consent Calendar for the portion of the project at 1402 Grand Avenue with the following comments:

- 1) The project received positive comments on location and size of proposed garage structure; hammerhead turnaround, fire accessibility, entry gates, and Allan Block wall.
- 2) Provide landscape screening of the garage from the uphill neighbor, which does not exceed the garage height. Provide landscape details when returning to Consent Calendar.

Action: Woolery/Miller, 4/0/0. Motion carried. (Bernstein/Sweeney absent).

**SFDB-Consnt (Proj Des & Final)****APVD****08/22/11**

(Project Design & Final Approval is requested for alterations to 1402 Grand Ave. 860 Jimeno was granted Project Design & Final Approval on July 5, 2011.)

The following interested parties expressed concerns regarding the proposed project:

Mike and Linda Cahill (adjacent neighbors); and Tony Fischer (Attorney).

Project Design Approval and Final Approval for 1402 Grand Avenue with the finding that the Neighborhood Preservation Ordinance criteria have been met as stated in Subsection 22.69.050 of the City of Santa Barbara Municipal Code and subject to the following conditions:

- 1) Show the landing and grades at the garage.
- 2) Landscaping screening at the garage is not to exceed the height of the ridge of the garage.

## Duke McPherson, Arborist

201 East Mountain Drive

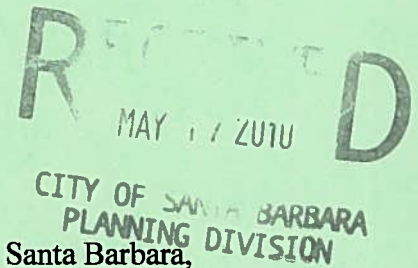
Santa Barbara, CA 93108

Phone 805 705-9529

E-mail: treemanduke@cox.net

May 16, 2010

Richele Mailand  
Richele Design & Consulting  
1129 State Street # 21  
Santa Barbara, CA 93101



Regarding: Coast Live Oak tree protection issues, 1402 Grand Avenue, Santa Barbara, California.

Dear Richele,

I am writing you this arborist letter report to document our findings from our meeting on May 14<sup>th</sup> on the subject property in reference to the protection of a Coast Live Oak, *Quercus agrifolia*, during proposed construction of a detached garage.

The tree is located on the upper edge of a steep slope above and to the northeast of the main residence building (see the accompanying plan section). It has an 18" trunk diameter at 4.5' up from the soil level. At present it appears to be in good health though, being situated in a fast draining soil medium, is subject to fluctuation depending on seasonal rainfall totals.

The Critical Root Zone (CRZ) of the tree is represented by the area within the dripline plus 5', is shown on the attached site plan section along with the outline of the proposed garage. The configuration of the garage outline overlaps the CRZ for a maximum of 3' along an 18' section.

I conclude that the area intruded upon by the garage foundation excavation is of such a small fraction of the total CRZ that the tree's health will not be affected.

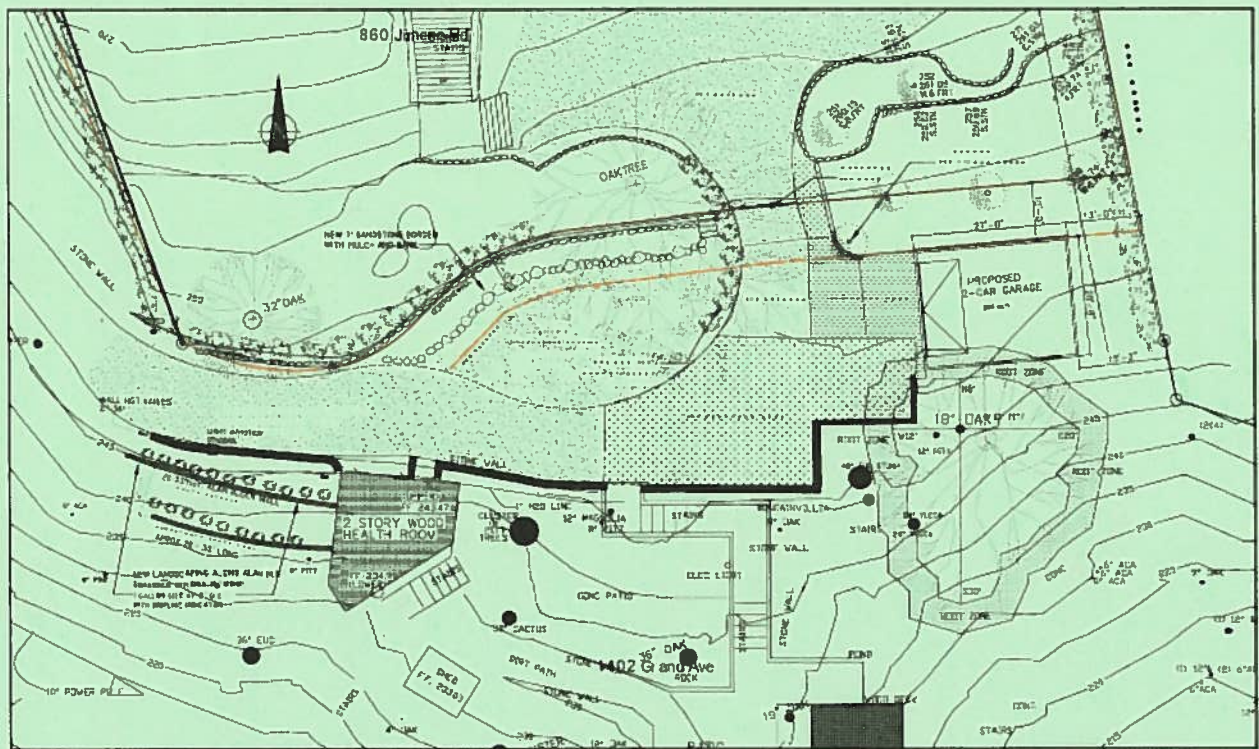
In this letter I also include concerns of another Coast Live Oak whose trunk is located on the property adjoining (860 Jimeno Road). One of the chief concerns was the proposal to use part of the area within its CRZ for a turnaround. I addressed the problem in a letter form arborist report dated April 16, 2009 to you. I concluded that because the owner had installed perforated plastic pipes in holes drilled throughout the exposed soil area, proper root aeration and water infiltration will occur even though vehicles would be allowed.

Sincerely yours,

Duke McPherson

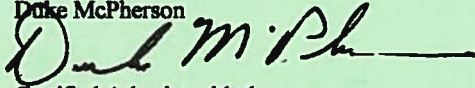
EXHIBIT D





The subject oak (18" trunk diameter) is located to the right of the plan section. Its Critical Root Zone is the area from the trunk to the outer edge of the darkened five foot zone adjoining the tree's dripline.

Report prepared by  
Duke McPherson

A handwritten signature in black ink, appearing to read "Duke McPherson", with a long horizontal line extending to the right.

Certified Arborist with the  
International Society of Arboriculture  
Certification # WE-0690A

Member of the  
American Society of  
Consulting Arborists  
Membership # 1113



# Duke McPherson, Arborist

P.O. Box 5667

Santa Barbara, CA 93150

Phone 805 969-4676

E-mail: treemanduke@cox.net

April 16, 2009

Richele Design & Consulting  
914 Anacapa Street  
Santa Barbara, CA 93101

Re: notes added to a letter of March 26, 2009.

Dear Richele,

I am writing this arborist report in letter form concerning the protection of a Coast Live Oak tree, *Quercus agrifolia*, on the property at 860 Jimeno Road, Santa Barbara, California. I wrote an earlier report, dated October 28, 2008, which dealt with some of the same issues as are found here. As mentioned before, the tree is 49" in diameter at 4 ½' up the trunk and despite a recent rather severe pruning and an attack of the California Oak Moth, *Phryganidia californica*, during the summer of 2008, is, in my opinion, in good health. Two inch diameter holes had been cored by the owner to a depth of 18" over a large section of the compacted soil area south of and below a retaining wall 6' from the tree's base.

The issue at present is whether the entire section of 1059 square feet and roughly in the shape of a half circle (termed here, the subject area) can be used to park vehicles or whether it would be preferable to use only a fraction of the area as a "hammerhead turnaround" and mulch and landscape approximately 594 square feet of the area.

First, we need to study exactly what occurs when soil is compacted. The upper most layer is compressed to form a hard crust (approximately 6" depending on soil texture) which inhibits the movement of air that is vital to maintaining good root health. It also prevents water infiltration into the soil during periods of rain. Roots generally do not establish themselves in this layer.

also ref B-5 geotechnical

It is my opinion that root health could be preserved in the subject area even if it was used for vehicular parking and turning around. I recommend that the entire area be cored in the manner described above and that perforated plastic pipe (Schedule 40 rated with ¼ " drilled holes) be placed in the holes to a depth of 18". In this way the holes would be preserved permanently as lined aeration and water infiltration tubes thus counteracting the possibility of compaction by vehicular traffic.

The above letter, written on March 28, 2009, leaves out two additional issues:

1. There is a setback line located west of a driveway which borders the subject area on the east, running north to south, and 10' into the area of the Critical Root Zone of the oak tree. To better insure that parking does not occur within the setback, it has been suggested that the area be planted. I recommend that a non-root invasive plant which needs little irrigation water be used such as *Agave attenuata*.
2. Another smaller area at the western end of the subject area is to be planted with a tree. This is a difficult soil for tree roots to penetrate, inhibiting establishment. Also, roots could become invasive to the retaining wall and driveway. I recommend that Agaves or their equivalent be planted here instead of a tree.

Sincerely yours,

Duke McPherson  
Certified Arborist with the  
International Society of Arboriculture  
Certification # WE-690-A

# Duke McPherson, Arborist

201 East Mountain Drive  
Santa Barbara, CA 93108

Phone 805 969-4676

E-mail: treemanduke@cox.net

October 28, 2008

Richele Design and Consulting  
914 Anacapa Street  
Santa Barbara, CA 93101

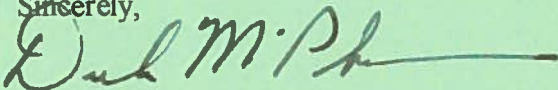
Regarding: 860 Jimeno Road, Santa Barbara, California

Dear Richele,

I am writing you this letter report in response to our meeting on October 24<sup>th</sup> at the property cited above. At that time you drew my attention to a 49" diameter (at 4.5' up the trunk) Coast Live Oak tree, *Quercus agrifolia*, situated on sloped terrain below (south) of the main residence. I examined the tree to determine its health level and determined that, even though it has sparse foliage throughout the canopy due to pruning for view and has had a moderate attack of the California Oak Moth, I assessed it to be in good health. You voiced concern that a proposal to pave the soil over a large part of the root system and demolition and re-making of the field stone retaining wall at its base may negatively impact its health.

First, I conclude that the program of tree care being carried on is exemplary: the terraced area around its base is not being irrigated, the retaining wall has had weep holes drilled into it every four feet at its base to allow for effective winter season drainage, and the approximately 1300 square foot compacted decomposed granite ground cover has had aeration holes drilled through it into the soil below. I recommend that no disturbance of the retaining wall occurs to prevent possible root impact and that the present decomposed granite cover which provides maximum root system aeration should be left as is. I feel that paving the root area with asphalt may cut off the effective root aeration that the tree receives at the present time.

Sincerely,



Duke McPherson  
Certified Arborist with the  
International society of Arboriculture  
Certification number WE-0690





# City of Santa Barbara California

## CITY OF SANTA BARBARA STAFF HEARING OFFICER

### RESOLUTION NO. 046-09

### 1402 GRAND AVENUE AND 860 JIMENO ROAD

### LOT LINE ADJUSTMENTS

JUNE 3, 2009

**APPLICATION OF RICHELE MAILAND AGENT FOR MIDWEST INSTITUTION, LLC & JOSEPH A. YOB, 1402 GRAND AVENUE & 860 JIMENO ROAD, 029-110-036 & 029-110-037, A-1/E-1 AND E-1 SINGLE FAMILY RESIDENTIAL ZONES, GENERAL PLAN DESIGNATION: 1 UNIT/ACRE (MST2008-00402)**

The proposed project consists of a Lot Line Adjustment between the properties located at 1402 Grand Avenue (Parcel 1) and 860 Jimeno Road (Parcel 2). The lot line adjustment will result in a transfer of 3,140 sq. ft. of lot area from Parcel 2 to Parcel 1. The proposal includes the installation of automatic gates at the driveway entry for 1402 Grand Avenue, the landscaping screening of as-built Alan block walls south of the driveway, landscaping of an as-built turnaround area to limit its usage to a turnaround and prevent parking within the setback, and alterations to the house at 860 Jimeno Road including window and door changes.

The discretionary application required for this project is a Lot Line Adjustment (LLA) to change the property line between Parcel 1, 1402 Grand Avenue (APN 029-110-036) and Parcel 2, 860 Jimeno Road (APN 029-110-037) (SBMC §27.40 & Gov. Code §66412).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality guidelines Section §15301 (Alterations to Small Structures) and §15305 (Minor Alteration in Land Use Limitations).

**WHEREAS**, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

**WHEREAS**, two people appeared to speak in opposition of the application, and the following exhibits were presented for the record:

1. Staff Report with Attachments, May 27, 2009.
2. Site Plans
3. Correspondence received expressing concerns about the project:  
Paula Westbury, 650 Miramonte Drive

**NOW, THEREFORE BE IT RESOLVED** that the City Staff Hearing Officer:

Approved the subject application making the following findings and determinations:

- I. Approved the project making the finding that the proposed lot line adjustment is appropriate for the area and is consistent with the City's General Plan and Building and Zoning Ordinances, as

shown in section VI.A -C. The lot line adjustment would create two legal lots that conform to the zoning requirements in the A-1 and E-1 zones as described in Sections V. and VI.C., dated May 27, 2009.

II. Said approval is subject to the following Conditions of Approval for 1402 Grand Avenue:

A. **Design Review.** The project is subject to the review and approval of the Single Family Design Board (SFDB). SFDB shall not grant preliminary approval of the project until the following Staff Hearing Officer land use conditions have been satisfied for the property located at 1402 Grande Avenue:

1. A one-car carport shall be constructed to provide one covered parking space in the location identified as the concrete parking area. The northern most parking space is the preferred location along the existing fence.
2. The proposed driveway turnaround shall be a hammerhead not to exceed a maximum of 14 foot width. The applicant shall work with Transportation staff and the SFDB to reduce the amount of paving and decomposed granite as much as possible, especially in the required setbacks to discourage the use of these areas for parking. A physical barrier shall be placed between the turnaround area and the adjacent landscaped areas to discourage access parking.
3. Large boulders shall be placed along the turnaround edge to prevent parking in areas not designated as the approved turnaround and within the required setback.
4. The decomposed granite shall be removed from under the Oak tree on the 1402 Grand Avenue property by hand and replaced with bark.
5. A small tree shall be planted in the small triangular planter.
6. Irrigation shall be shown on the plans for the Rosemary shrubs.
7. The exterior lighting for the health room shall be placed on a motion detector.
8. The driveway entry gate shall be setback a minimum distance of 20 feet from the front property line or shall be reduced to a maximum height of 3.5 feet
9. **Tree Protection Measures.** The landscape plan shall include the following tree protection measures, intended to minimize impacts on trees:
  - a. **Landscaping Under Trees.** Landscaping under the tree(s) shall be compatible with the preservation of the tree(s).
  - b. **Arborist's Report.** Include a note on the plans that recommendations/conditions contained in the arborist's report prepared by Duke McPherson, dated May 27, 2009, shall be implemented.
10. **Irrigation System.** The irrigation system shall be designed and maintained with the most current technology to prevent a system failure, and watering of vegetation on the steep slope shall be kept to the minimum necessary for plant

survival. The drip system along the bluff edge shall be removed after one full season of plant growth.

11. **Permeable Paving.** The turnaround area shall remain a permeable paving system that will allow a portion of the paved area runoff to percolate into the ground.
13. **Unit Size.** The size of existing residence to be verified prior to return to the SFDB.
14. **Zoning Compliance Declaration.** A Zoning Compliance Declaration shall be recorded against 1402 Grand Avenue.

B. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute *a written instrument prepared by Community Development staff*, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:

1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on June 3, 2009 is limited to a Lot Line Adjustment, construction of a one-car carport, and improvements shown on the plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
2. **Recreational Vehicle Storage Limitation.** No recreational vehicles, boats, or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
3. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. If said landscaping is removed for any reason without approval by the SFDB, the owner is responsible for its immediate replacement. The following tree protection shall be incorporated:
  - a. **(Oak) Tree Protection.** The existing tree(s) shown on the Landscape Plan approved by the SFDB shall be preserved, protected, and maintained (in accordance with the recommendations contained in the arborist's report prepared by Duke McPherson, dated March 26, 2009. A copy of this report shall be attached to the recorded conditions as an exhibit.) The following provisions shall apply to any oak trees to remain on the property:
    - (1) No irrigation systems shall be installed within three feet of the drip line of any oak tree.



- (2) The use of herbicides or fertilizer shall be prohibited within the drip line of any oak tree.

4. **Geotechnical Liability Limitation.** The Owner understands and is advised that the site may be subject to extraordinary hazards from landslides, erosion, retreat, settlement, or subsidence and assumes liability for such hazards. The Owner unconditionally waives any present, future, and unforeseen claims of liability on the part of the City arising from the aforementioned or other natural hazards and relating to this permit approval, as a condition of this approval. Further, the Owner agrees to indemnify and hold harmless the City and its employees for any alleged or proven acts or omissions and related cost of defense, related to the City's approval of this permit and arising from the aforementioned or other natural hazards whether such claims should be stated by the Owner's successor-in-interest or third parties.

C. **Community Development Requirements with Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit and finalized prior to Building or Public Works Permit issuance:

1. **Lot Line Adjustment Required.** The Owner shall submit an executed *Agreement Related to the Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof or Declaration of Lot Line Adjustment* to the Public Works Department, including the legal description of the subject properties prior to, and following the lot line adjustment. A licensed surveyor shall prepare the legal description and said Agreement/Declaration shall be recorded in the Office of the County Recorder.
2. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.

D. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.

1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Single Family Design Board, outlined in Section A above.
2. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a

Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

3. **Conditions on Plans/Signatures.** The final Staff Hearing Officer Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Archaeologist contract submitted to Community Development Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner		Date
Contractor	Date	License No.
Architect	Date	License No.
Engineer	Date	License No.

- E. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction.

1. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading,

contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the applicant shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

- F. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in

this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

**NOTICE OF APPROVAL TIME LIMITS:**

The Staff Hearing Officer's action approving the Lot Line Adjustment for 1402 Grand Avenue shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §27.40.100. The applicant may apply for an extension of this approval as provided in Section 27.40.100.B.

III. Said approval is subject to the following Conditions of Approval for 860 Jimeno Road:

- A. **Design Review.** The project is subject to the review and approval of the Single Family Design Board (SFDB). SFDB shall not grant preliminary approval of the project until the following Staff Hearing Officer land use conditions have been satisfied for the property located at 860 Jimeno Road:
  1. **Tree Protection Measures.** The landscape plan shall include the following tree protection measures, intended to minimize impacts on trees:
    - a. **Landscaping Under Trees.** Landscaping under the tree(s) shall be compatible with the preservation of the tree(s).
    - b. **Arborist's Report.** Include a note on the plans that recommendations/conditions contained in the arborist's report prepared by Duke McPherson, dated March 26, 2009, shall be implemented.
  2. **Irrigation System.** The irrigation system shall be designed and maintained with the most current technology to prevent a system failure, and watering of vegetation on the steep slope shall be kept to the minimum necessary for plant survival. The drip system along the bluff edge shall be removed after one full season of plant growth.
  3. **Unit Size:** The size of existing residence to be verified prior to return to the SFDB.
- B. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute *a written instrument prepared by Community Development staff*, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
  1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on June 3, 2009 is limited to a Lot Line Adjustment

and improvements shown on the plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.

2. **Recreational Vehicle Storage Limitation.** No recreational vehicles, boats, or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
  3. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. If said landscaping is removed for any reason without approval by the SFDB, the owner is responsible for its immediate replacement. The following tree protection shall be incorporated:
    - a. **(Oak) Tree Protection.** The existing tree(s) shown on the Landscape Plan approved by the SFDB shall be preserved, protected, and maintained (in accordance with the recommendations contained in the arborist's report prepared by Duke McPherson, dated March 26, 2009. A copy of this report shall be attached to the recorded conditions as an exhibit.) The following provisions shall apply to any oak trees to remain on the property:
      - (1) No irrigation systems shall be installed within three feet of the drip line of any oak tree.
      - (2) The use of herbicides or fertilizer shall be prohibited within the drip line of any oak tree.
- C. **Community Development Requirements with Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit and finalized prior to Building or Public Works Permit issuance:
1. **Lot Line Adjustment Required.** The Owner shall submit an executed *Agreement Related to the Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof or Declaration of Lot Line Adjustment* to the Public Works Department, including the legal description of the subject properties prior to, and following the lot line adjustment. A licensed surveyor shall prepare the legal description and said Agreement/Declaration shall be recorded in the Office of the County Recorder.
  2. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.
- D. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.



1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Single Family Design Board, outlined in Section A above.
2. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.
3. **Emergency Evacuation Plan.** Provide an emergency evacuation plan subject to approval by the Fire Department.
4. **Conditions on Plans/Signatures.** The final Staff Hearing Officer Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Archaeologist contract submitted to Community Development Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner	Date
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Contractor	Date	License No.
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Architect	Date	License No.
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Engineer	Date	License No.
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- E. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

#### **NOTICE OF APPROVAL TIME LIMITS:**

The Staff Hearing Officer's action approving the Lot Line Adjustment for 860 Jimeno Road shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §27.40.100. The applicant may apply for an extension of this approval as provided in Section 27.40.100.B.

This motion was passed and adopted on the 3rd day of June, 2009 by the Staff Hearing Officer of the city of Santa Barbara.

STAFF HEARING OFFICER RESOLUTION No. 046-09  
1402 GRAND AVENUE & 860 JIMENO ROAD  
JUNE 3, 2009  
PAGE 11

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Staff Hearing Officer at its meeting of the above date.

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Gloria Shafer, Staff Hearing Officer Secretary

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Date

II. CONSENT ITEMS:

ACTUAL TIME: 9:02 A.M.

A. APPLICATION OF RICHELE MAILAND, AGENT FOR MIDWEST INSTITUTION, LLC & JOSEPH A. YOB, 1402 GRAND AVENUE AND 860 JIMENO ROAD, APNs 029-110-036 AND 029-110-037, A-1/E-1 AND E-1 SINGLE FAMILY RESIDENTIAL ZONES, GENERAL PLAN DESIGNATION: 1 UNIT/ACRE (MST2008-00402)

This is a request for a three-year Time Extension of the expiration date of the Lot Line Adjustment and Modification approved by the Staff Hearing Officer on June 3, 2009, and on appeal by City Council May 11, 2010. The project consists of a lot line adjustment to decrease 860 Jimeno Road and increase 1402 Grand Avenue by 3,140 square feet. Resulting lot sizes would be 22,598 and 226,973 square feet (5.2 acres) respectively. The lots are located in the Hillside Design District. On June 30, 2010, a substantial conformance determination was made by the Staff Hearing Officer that the construction of a 603 square foot detached two-car garage for 1402 Grand Avenue was consistent with intent of the condition to provide a minimum of one covered parking space. The project includes a new entry gate and as-built changes to the stone walls along the driveway at 1402 Grand Avenue. The project also includes alterations to the residence at 860 Jimeno Road consisting of replacement of an existing window with new French door, adding a new window, and converting the existing permitted understory to habitable space.

Present: Richele Mailand, Agent; and Joseph A. Yob, Owner.

Suzanne Riegle, Assistant Planner, gave the Staff presentation and recommendation.

The Public Hearing was opened at 9:04 a.m.

Mike Cahill, opposed, (enforcement history memo and photographs submitted) representing himself, the Neighborhood Association, and Mr. Tony Fischer, recommended denial of granting the proposed time extension in the best interest of the health, welfare, and safety of the neighborhood citing concerns due to documented numerous enforcement violations since 2005 regarding the subject property.

Letters of concern from Paula Westbury and Mike Cahill were acknowledged.

The Public Hearing was closed at 9:09 a.m.

**ACTION:**

**Assigned Resolution No. 029-11**

Approved the three-year time extension to June 3, 2014 for the lot-line adjustment and Modification, subject to the original Conditions of Approval contained in Staff Hearing Officer Resolution No. 046-09.

Ms. Reardon also clarified that the Substantial Conformance Determination granted in June 2010 did not amend the Conditions of Approval contained in SHO Resolution No. 046-09.

It was announced that the approval of the time extension is not appealable to the Planning Commission.

### III. PROJECTS:

#### ACTUAL TIME: 9:12 A.M.

A. APPLICATION OF MARK MORANDO, AGENT FOR GRAHAM ASHLOCK, 2320 CLIFF DRIVE, APN 041-242-025, E-3 ONE-FAMILY RESIDENCE ZONE, GENERAL PLAN DESIGNATION: 5 UNITS PER ACRE (MST2011-00214)

The 4,949 square foot project site is currently developed with a 1,210 square foot single-family residence and attached 404 square foot two-car garage. The proposed project involves a 69 square foot addition to the rear of the existing residence and the addition of new 172 square foot and 36 square foot trellises.

The discretionary application required for this project is a Modification to permit alterations and additions to a portion of the residence located within the required six-foot (6') interior setback (SBMC §28.15.060).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Sections 15301 and 15305.

Present: Mark Morando, Agent; and Graham Ashlock, Owner.

Ms. Reardon announced that she read the Staff Report for the proposed project and also visited the site and surrounding neighborhood.

Betsy Teeter, Planning Technician, gave the Staff presentation and recommendation.

The Public Hearing was opened at 9:16 a.m., and with no one wishing to speak, the Public Hearing was closed.

Letters of support from Jon Blake and Rollin and Wendy Weeks, as well as a letter of concern from Paula Westbury, were acknowledged.

#### **ACTION:**

**Assigned Resolution No. 030-11**

Approved the Modification making the findings as outlined in the Staff Report dated July 20, 2011.

The ten calendar day appeal period to the Planning Commission was announced and is subject to suspension for review by the Planning Commission.



**ACTION:**

**Assigned Resolution No. 034-10**

The Modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The proposed front setback encroachment allows for an architectural improvement, without additional floor area, without impacts to the neighbors.

The ten calendar day appeal period to the Planning Commission and subject to suspension for review by the Planning Commission was announced.

**ACTUAL TIME: 10:56 A.M.**

G. **APPLICATION OF RICHELE MAILAND FOR MIDWEST INSTITUTION, LLC & JOSEPH A. YOB, 1402 GRAND AVENUE & 860 JIMENO ROAD, 029-110-036 & 029-110-037, A-1/E-1 AND E-1 SINGLE FAMILY RESIDENTIAL ZONES, GENERAL PLAN DESIGNATION: 1 UNIT/ACRE (MST2008-00402)**

A Substantial Conformance Determination has been requested to allow for changes to the approved project conditions outlined in Staff Hearing Officer Resolution 046-09. Condition II.A.1 required a one-car carport be built and the applicant has revised project to include the construction of a 603 square foot detached two-car garage for 1402 Grand Avenue. The applicant has requested revisions to conditions II.A.2-5, which restricted the vehicular access on the lot to the minimum area needed to turn a vehicle around, with a condition for planters and boulders to restrict vehicular access. The applicant has requested the enlargement of the area identified as a turn around area and a guest parking space.

Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality guidelines Section §15303 (New Construction of Small Structures) and §15305 (Minor Alteration in Land Use Limitations).

Present: Kathleen Weinheimer, Attorney for applicant; Richele Mailand, Applicant; Duke McPherson, Arborist; Todd Drevo and Melanie Cava (Midwest Institution, LLC), Owners; Jim Austin, Fire Inspector.

Suzanne Reigle, Assistant Planner, gave the Staff presentation and recommendation. Ms. Reigle clarified that a paragraph regarding categorical exemption was inadvertently omitted from the agenda.

Mr. Austin, Fire Inspector explained that the proposal improves the Fire Department's ability to access the property. Mr. McPherson, Arborist stated that he is comfortable that the tree compaction issue had been addressed, and it was his opinion that the tree is healthy and the proposed parking area is acceptable.

Mr. McPherson suggested obtaining a base arborist report to aid in monitoring against moth infestation.

Ms. Reardon announced that she read the Staff Report for the proposed project and also visited the site and surrounding neighborhood.

The Public Hearing was opened at 11:19 a.m.

Benita Wilson, spoke in support.

Francesca Cava, spoke in support.

A petition containing eleven neighbor signatures in support was acknowledged.

The Public Hearing was closed at 11:23 a.m.


Ms. Reardon questioned vehicular maneuverability. Chelsey Swanson, Assistant Transportation Planner explained that a standard vehicle can turnaround in one maneuver, larger vehicles might require several back and forth maneuvers. Ms. Mailand suggested reducing the amount of decomposed granite within the 10' setback and having an arborist conduct baseline and yearly reports.

After considerable discussion, the Staff Hearing Officer recommended Staff find the project to be in Substantial Conformance with the original approval with the following comments: 1) The applicant is to submit a written agreement to Staff for approval prior to final determination. 2) The increased turn around area was acceptable with the understanding that if the Oak tree appears to be adversely affected then the decomposed granite could be reduce and reverted to mulch. 3) The property owner is to work with the neighboring property owner to prevent future Oak tree infestation.

### **III. ADJOURNMENT**

Ms. Reardon adjourned the meeting at 11:44 a. m.

Submitted by,

  
\_\_\_\_\_  
Gloria Shafer, Staff Hearing Officer Secretary

**ACTION:**

**Assigned Resolution No. 045-09**

Approve the project making the findings outlined in the Staff Report as revised at the hearing, and subject to the Conditions of Approval in Exhibit A of the Staff Report with the added Condition D.1. "Carport Height" The carport shall not exceed the maximum 7' interior height, and 9' 6" height to roof line, level with ground, and 19' maximum length.

The ten calendar day appeal period to the Planning Commission and subject to suspension for review by the Planning Commission was announced.

**ACTUAL TIME 10:36 A.M.**

**F. APPLICATION OF RICHELE MAILAND AGENT FOR MIDWEST INSTITUTION, LLC & JOSEPH A. YOB, 1402 GRAND AVENUE & 860 JIMENO ROAD, 029-110-036 & 029-110-037, A-1/E-1 AND E-1 SINGLE FAMILY RESIDENTIAL ZONES, GENERAL PLAN DESIGNATION: 1 UNIT/ACRE (MST2008-00402)**

The proposed project consists of a Lot Line Adjustment between the properties located at 1402 Grand Avenue (Parcel 1) and 860 Jimeno Road (Parcel 2). The lot line adjustment will result in a transfer of 3,140 sq. ft. of lot area from Parcel 2 to Parcel 1. The proposal includes the installation of automatic gates at the driveway entry for 1402 Grand Avenue, the landscaping screening of as-built Alan block walls south of the driveway, landscaping of an as-built turnaround area to limit its usage to a turnaround and prevent parking within the setback, and alterations to the house at 860 Jimeno Road including window and door changes.

The discretionary application required for this project is a Lot Line Adjustment (LLA) to change the property line between Parcel 1, 1402 Grand Avenue (APN 029-110-036) and Parcel 2, 860 Jimeno Road (APN 029-110-037) (SBMC §27.40 & Gov. Code §66412).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality guidelines Section §15301 (Alterations to Small Structures) and §15305 (Minor Alteration in Land Use Limitations).

Present: Richele Mailand, Agent.

Suzanne Johnston, Assistant Planner, gave the Staff presentation and recommendation.

The Public Hearing was opened at 10:48 a.m.

Tony Fischer, Attorney representing Mike and Linda Cahill: not opposed to the carport, but concerned that the property is being used as a vacation rental. Supported the Conditions of Approval for protection of the Oak tree. Height limits should be established for the carport, with a flat roof to match the house. Parcel statistics are reversed on elevations, and square footages should be verified.

Mike Cahill, neighbor, opposed: if approved, roof of carport should be non-reflective and match the house roof and not obstruct the view corridor; suggested restoring the previous rock wall, which was removed.

A letter from Paula Westbury expressing concerns for the project was acknowledged.  
The public hearing was closed 11:08 a.m.

Mr. Kato, Senior Planner, explained that a property rented for longer than one month it is considered residential; the health room is a detached accessory room and rental as a separate dwelling is not permitted.

Ms. Reardon questioned the minimum area required for head out maneuvering, and whether there is an active code enforcement case. Ms. Wilson responded that the proposal includes options 1 and 2 shown on the plans, and option 2 provides a wider berth for the turnaround. Ms. Johnston replied that her understanding is that option 2 is outside of the setback.

Ms. Reardon questioned whether there is an active building code enforcement case. Ms. Johnston, replied that there is not an open enforcement case as it was determined that there was not a significant square footage change.

Public comment reopened at 11:26.

Tony Fischer, Attorney representing Mike and Linda Cahill: clarified his statements regarding inconsistencies in the square footages listed on the plan.

Public comment was closed.

**ACTION:**

**Assigned Resolution No. 046-09**

Approved the project making the finding that the proposed lot line adjustment is appropriate for the area and is consistent with the City's General Plan and Building and Zoning Ordinances, as shown in section VI.A-C. The lot line adjustment would create two legal lots that conform to the zoning requirements in the A-1 and E-1 zones as described in Sections V. and VI.C., dated May 27, 2009.

Said approval is subject to the Conditions of Approval contained in Exhibits A and B of the Staff Report as revised at the meeting, with the conditions that 1) I.A.2. add "A physical barrier shall be placed between the turnaround area and the adjacent landscaped areas to discourage access parking."; and 2) Add condition I.A.13. "The size of existing units to be verified prior to return to the SFDB"; and 3) Add condition I.A.14. "A Zoning Compliance Declaration shall be recorded." Said approval is also subject to the Conditions of Approval contained in Exhibit B of the Staff Report as revised at the meeting, with the added condition I.A.3. "Unit Size: The size of existing residence to be verified prior to return to the SFDB."